

MINUTES OF MEETING OF WAREHAM CONSERVATION COMMISSION

Date of Meeting: June 17, 2015

I. CALL MEETING TO ORDER

The meeting was called to order at 7:08 P.M.

II. ROLL CALL

Members Present: Ken Baptiste, Chairman
 Jim Smith
 Joe Leggett
 Sandy Slavin
 Mark Carboni
 Elissa Heard, Associate Member
 Dave Pichette, Agent

Members Absent: Donald Rogers
 Elizabeth Lydon, Associate Member

III. PRELIMINARY BUSINESS

A. Approve meeting minutes: April 1, 2015.

MOTION: Mr. Baptiste moved to approve the meeting minutes of April 1, 2015. Mr. Smith seconded.

VOTE: Unanimous (5-0-0)

IV. PUBLIC HEARINGS

A. RDA – Nicholas Ciano

The public hearing notice was read into the record.

Present before the Commission: Nicholas Ciano

Mr. Pichette stated a site inspection was made at 41 Bayview Street. The project involves the construction of an addition to a garage within a coastal flood zone. A 10x18 addition to an existing garage in coastal flood zone AE, elevation 14 is proposed. The roof will also be raised by four feet. The project is not in the buffer zone to any other resource areas. No grade changes are proposed. He recommended a Negative Determination #2.

MOTION: Mr. Smith moved to close the public hearing for Nicholas Ciano. Mr. Carboni seconded.

VOTE: Unanimous (5-0-0)

MOTION: Mr. Leggett moved to grant a Negative #2 Determination for Nicholas Ciano. Mr. Carboni seconded.

VOTE: Unanimous (5-0-0)

B. RDA – Richard McNair

The public hearing notice was read into the record.

Present before the Commission: Mr. & Mrs. McNair

Mr. Pichette stated a site inspection was made at 34 Mayflower Ridge Drive. The project involves the construction of an addition in the buffer zone to bordering vegetated wetland (BVW). The project has already been started without building permits. The addition is being constructed on an existing deck and is planned to be on sono tube footings. Existing footings from the previous deck were used for supports. The Building Inspector is requiring additional footings. The installation of these footings is in the buffer zone to the BVW & the addition is 35' from the edge of the wetland. He recommended the installation of hay bales between the work and the resource areas. The shell of the structure is already in place. No grade changes are proposed. He recommended the issuance of a Negative #3 Determination for the work.

MOTION: Mr. Smith moved to close the public hearing for Richard McNair. Mr. Leggett seconded.

VOTE: Unanimous (5-0-0)

MOTION: Mr. Smith moved to grant a Negative #3 Determination with the inclusion of hay bales/erosion control for Richard McNair. Mr. Carboni seconded.

VOTE: Unanimous (5-0-0)

C. RDA – Savary Brothers, c/o JC Engineering, Inc.

The public hearing notice was read into the record.

Present before the Commission: Brad Bertollo, JC Engineering, Inc.

Mr. Pichette stated a site inspection was made at 2607 Cranberry Hwy. The project involves upgrading a septic system in the buffer zone to bordering vegetated wetlands (BVW). An existing system is to be replaced with a new Title V system. The work in the buffer zone involves the dismantling of the existing septic tank and the installation of the new septic tank and piping. The new system will be a nitrogen reducing system. The work would be 85' from the edge of the BVW. The new leach field would be in the same general area as the existing and is outside the buffer zone to the BVW. An existing paved driveway exists between the work and

the BVW. He questioned if the driveway is to be repaved. He recommended the issuance of a Negative #3 Determination for the project.

MOTION: Mr. Leggett moved to close the public hearing for Savary Brothers. Mr. Smith seconded.

VOTE: Unanimous (5-0-0)

MOTION: Mr. Leggett moved to grant a Negative #3 Determination for Savary Brothers. Mr. Smith seconded.

VOTE: Unanimous (5-0-0)

D. NOI – MA Division of Fisheries & Wildlife (Jason Zimmer), c/o Princetown Hydro, LLC

The public hearing notice was read into the record.

No-one was present to represent the application

MOTION: Mr. Leggett moved to continue the public hearing for MA Division of Marine Fisheries to July 15, 2015. Mr. Carboni seconded.

VOTE: Unanimous (5-0-0)

V. CONTINUED PUBLIC HEARINGS

A. NOI – Bourne Point Trust, c/o Lucille Aptekar

Present before the Commission: Lucille Aptekar

Mr. Pichette stated a site inspection was made at 17 Bourne Point Road. The project involves repairs to an existing pile supported pier ramp and float system in Bourne Cove. The project involves resetting several piles of the structure which is 57' in length that had been lifted out of the substrate by ice damage this winter. The intent would be to use hand tools including a large sledge hammer and a hand jet to pound the piles back into place. Barrels filled with water would be used to weight down the deck of the pier while the piles are reset. Jetting in piles has not typically been a preferred method to install pilings as this can cause higher turbidity/siltation. All proposed work is hand work to be done from the shore side of the structure. No barge is proposed to be used.

MOTION: Mr. Leggett moved to close the public hearing for Bourne Point Trust. Mr. Carboni seconded.

VOTE: Unanimous (5-0-0)

MOTION: Mr. Carboni moved to grant an Order of Conditions for Bourne Point Trust with standard conditions & the added conditions to reset the piles with hand tools and to allow limited jetting with a silt fence curtain. Mr. Leggett seconded.

VOTE: Unanimous (5-0-0)

B. NOI – Renewable Energy/Amelia Tracy, c/o G.A.F. Engineering, Inc. – SE76-2342

Present before the Commission: Bill Madden, G.A.F. Engineering, Inc.
Representatives from Renewable Energy

Discussion ensued re: the project & project details.

MOTION: Mr. Carboni moved to close the public hearing for Renewable Energy/Amelia Tracy. Mr. Leggett seconded.

VOTE: Unanimous (5-0-0)

MOTION: Mr. Leggett moved to grant an Order of Conditions for Renewable Energy/Amelia Tracy. Mr. Smith seconded.

VOTE: (3-2-0)

C. NOI – Ronald & Lois Enos, c/o G.A.F. Engineering, Inc.

Mr. Baptiste recused himself from this hearing. Ms. Slavin became Chair Pro Tem.

Present before the Commission: Peter Balzarini
Fred Fuller

Mr. Pichette stated there is nothing new he would add re: this matter except the reason the hearing was continued at the last meeting is so the ConCom members could meet w/ Town Counsel to discuss the issue of the applicant & whether or not the materials they submitted would meet the requirements for the waiver. He stated if the ConCom members are comfortable, based on Town Counsel's review, that the applicant does meet the standard, then he would recommend approval of this project as presented.

Mr. Balzarini stated he is not privy to the discussion w/ Town Counsel, but he is hopeful that what was reviewed would keep in line w/ the Town Bylaw.

Ms. Slavin stated one point to be considered is whether or not the individual stated in the letter of intent was deemed handicapped. Research was done & it was determined that the handicapped waiver request (the document from the South Coast Hospital Group) re: Martha Thompson & the handicapped plate from Virginia Enos indicates that these two individuals are handicapped.

MOTION: A motion was made & seconded that the handicapped qualification has been met re: Ronald & Lois Enos.

VOTE: Unanimous (4-0-0)

Present before the Commission: Attorney Scott Golding, Representing Winship LLC

Attorney Golding stated he submitted a letter to Mr. Pichette dated 6/17/15. This is the third letter he has submitted. He feels the key issue is you don't issue a permit based on a Bylaw as it has been amended by the Town. There was an amendment to exception #3. Re: Exception #3, a conjunctive was added. He discussed the Superior Court decision & it was determined by the Superior Court that none of the six exceptions are applicable to this project. Even w/ the amendment & the conjunction of "and", you cannot separate the handicapped waiver portion of this. He feels this amendment is for not. He feels the Commission needs to look at the Bylaw of the Town & the amendment made re: the handicapped waiver as included in Exception #3. He feels if the word was "or" vs. what it is now, it would be an entirely different situation. He has an issue if a realty trust can have relatives. Discussion ensued.

Mr. Balzarini feels it was clear at Town Meeting the intention of the voters was to resolve the handicapped issue. He spoke re: "a realty trust having relatives" statement by Attorney Golding. He would like to have a ruling. He believes Town Counsel was involved in writing the amendment & Town Meeting supported the amendment. The intention is to allow handicapped access as an exception to the no work zone rule. This is the reasoning for this.

Present before the Commission: Karl Clemmey

Mr. Clemmey stated he would like to hear what Town Counsel said. He feels if the Commission approves this, it will open up "Pandora's Box" & everyone in Town can use it. He feels the only reason for this is to put a back door on their four properties.

Attorney Golding reiterated what he said previously above & the need to apply the Bylaw & apply what the exception says.

MOTION: Mr. Leggett moved to close the public hearing for Ronald & Lois Enos. Mr. Smith seconded.

VOTE: (3-0-1)

MOTION: Mr. Carboni moved to grant an Order of Conditions for Ronald & Lois Enos. Mr. Leggett seconded.

VOTE: Unanimous (4-0-0)

NOTE: Mr. Baptiste returned to the table at this time.

VI. EXTENSION REQUESTS

There were no extension requests at this time.

VII. ENFORCEMENT ORDERS

There were no enforcement orders at this time.

VIII. CERTIFICATES OF COMPLIANCE

A. Jack Nolan – 230 Blackmore Pond Road

MOTION: Mr. Smith moved to grant a Certificate of Compliance for Jack Nolan – 230 Blackmore Pond Road. Mr. Leggett seconded.

VOTE: Unanimous (5-0-0)

B. ANY OTHER BUSINESS/DISCUSSION

A. Discussion: Dave Menard, Municipal Maintenance Director – County Road

Present before the Commission: Dave Menard, Municipal Maintenance Director
 Bill Madden, G.A.F. Engineering, Inc.

Mr. Menard and Mr. Madden presented a proposal to re-pave County Road to include drainage and shoulder work.

Mr. Madden asked the Commission what type of application they would like to see for the proposed work. He explained the project is proposing to raise the pavement 5” and allow stormwater to runoff the shoulders. Mr. Pichette noted that some type of stormwater treatment needs to be in place so that water doesn’t just runoff into the wetland.

B. Discussion: Steve Doire – 250 Barker Road

It was explained that the applicant is requesting minor modifications to the landscape plan of a project that was previously approved. When the rail road ties were being removed from the waterfront, the ties were removed down to their base. The grade was brought down around the sill for the future replacement of an existing disintegrating patio. In removing the ties and affecting the grade the beach area was being contaminated. They would like to replace the beach sand with acceptable materials. They are requesting to replace six yards. There is also a pressure treated wall between the property and the pond and they are requesting the wall be removed. On the corner of the plan, the deck corner has a small slope and sediment into the pond is a concern. It is requested to place some natural stone on the path so that the surface is not wearing and eroding into the pond.

Mr. Pichette feels the slope could be established by planting grass. He also recommended leaving the wall, otherwise the earth will erode into the pond and create a larger beach area. The applicant also proposes to place a large natural stone outside of the deck in order to place a grille.

The Commission members concurred that they would approve all of the proposed modifications, except the removal of the pressure treated wall.

C. Discussion: Dimitrios Aevazelis – 41 Oak Street

It was explained that this project was previously approved and during the process of construction, trees were removed along the property line that were not approved. The applicant had been fined and given standards in which they needed to meet. The Commission required that the planting of the trees be done in the spring of 2015. The trees have not yet been planted, so Mr. Pichette requested that they come before the Commission to explain why the trees have not yet been planted.

Ms. Aevazelis stated the construction of the house was delayed over the winter and only the frame of the house currently exists. Mr. Pichette stated the stumps could be ground at this time before the construction of the house is completed.

D. Discussion: Chapter 61A Sale of Land – A.D. Makepeace

E. Discussion: Reappointments

F. Discussion: Conservation Restriction/Stewardship

G. Discussion: Bills

H. Discussion: Wetland Bylaw

IX. ADJOURNMENT

MOTION: Mr. Smith moved to adjourn the meeting at 9:34 P.M. Mr. Leggett seconded.

VOTE: Unanimous (5-0-0)

Date signed: _____

Attest: _____

Ken Baptiste, Chairman

WAREHAM CONSERVATION COMMISSION

Date copy sent to Town Clerk: _____