

**Town of Wareham
Conservation Commission Minutes
November 16, 2022**

I. PRELIMINARY BUSINESS:

Present: Chairperson, Ms. Sandra Slavin, Denise Schulz, Kwame Bartie, Michael Mercier, Nichole Locurto , and Jessica Parr (associate member). Carol Malonson arrived at 6:55 p.m.

Absent:

Mr. Buckland was also present.

Review and Approve Meeting Minutes: 8-3-22, 8-17-22, 9-7-22, 9-21-22, 10-5-22 and 10-19-22; 11-2-22

Ms. Slavin said there are minutes, but they haven't been reviewed as of yet.

II. PUBLIC HEARINGS:

a. RDA – George Gadkids – c/o GAF Engineering – 31 North Water St

Mr. Bob Rogers of GAF Engineering was present for the applicant.

Mr. Buckland reviewed the field notes: He said this project is to propose a 2-story garage with an office on the second floor. He said the top of the slab was in an AE14 flood zone. He said that new sewer, gas, and water utilities are proposed. Underground leeching is proposed according to the plan. The Zoning Board will need to review for dimensional variances.

Mr. Rogers described that the land was very flat. He said it was a coastal bank project and coastal zone. He had the dimensions of the garage and the plans readily available. He said there was a roof infiltration for the garage.

Ms. Slavin asked the Board Members if there were any questions.

Ms. Schulz asked about the front-of-the-house parking. Mr. Rogers said he was only aware of work being on the plan.

Mr. Mercier asked about the tree in the back and if that would be impacted. Mr. Rogers said it looks like three trees, but it is one tree. He said he paced off roughly 28 feet. He said they would cut back hedges to accommodate the driveway.

Ms. Slavin asked about the gas line going under the garage. Mr. Rogers said it would be going around the garage.

Ms. Slavin stated the stipulation that the space above the garage can only be used as office space and not living quarters. Mr. Rogers said that was correct. Ms. Slavin said they wouldn't have sewer capacity and it should remain an office.

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

Ms. Schulz made a motion to close the public hearing which was seconded by Mr. Bartie. The motion passed unanimously. (5-0-0)

Ms. Schulz made a motion to approve as a Negative 3 and was seconded by Mr. Mercier. The motion passed unanimously. (5-0-0)

CONTINUED PUBLIC HEARINGS:

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

Representing GAF Engineering, Mr. Bob Rogers was present. He handed out new plans. He stated he already emailed the plans to the office as well.

Mr. Rogers said they were coming back to wait for comments from the Harbormaster about the location and he said there was a patch of eelgrass that members had questions on. He said they moved the pier to avoid the eelgrass patch.

Mr. Buckland reviewed the field notes: He read that this was a pier with a boat lift. 210' ramp, gang, and float system within 95' of mean high water. He said MA DMF sent in comments regarding the eelgrass and scallops under the pier. He said there would be no commercial or recreational fishing in the area. He said comments have not been received by the Harbormaster.

Ms. Slavin said they were relocating the pier a bit to avoid the eelgrass. She said they have not heard from the Harbormaster for comment either.

Mr. Rogers said he provided them with the DEP eelgrass map. He said that he emailed the Harbormaster on November 7, 2022, as well with no comments.

Ms. Slavin referred to board members for comments.

Ms. Schulz read from the Dept of Marine and Fisheries regarding piers and the adverse effect on the eelgrass. Mr. Rogers pointed out the eelgrass was a patch only. Ms. Schulz stated that what she was reading, as didn't matter whether it was patch or more. Mr. Rogers argued that everything was being built according to the bylaws.

He said that he thinks it's arbitrary to say now that he can't build but his neighbors can. He asked if they had the opportunity to get more information, and he would.

Ms. Slavin said that the DFM clearly stated that there were shellfish on this area, and they were concerned about that.

Mr. Rogers asked for a continuance to get an opinion from Mr. Buchminister.

Ms. Schulz made a motion to continue to December 7, 2022, per the applicant's request and was seconded by Mr. Mercier. The motion passed unanimously. (5-0-0).

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

Mr. Brad Bertolo stated he was present on behalf of the applicant, and he stated he had revised plans.

Mr. Buckland reviewed the field notes: He read that the NOI was filed to address a violation as well as for a proposed single-family dwelling, in the buffer zone to the BV location. He said that the fill was added without approval. He said the NOI was issued to address the problem. He said work was done in the 30' no activity zone, which needs to be restored to its natural slope. This NOI is for a proposed single-family garage and inground pool. The dwelling is proposed at 142x65, with a 24x48 garage proposed approximately 40' from the wetlands. He said there would be infiltration structures on-site and a retaining wall on the edge of the no-activity zone; 2-4' in height. Infiltration is recommended at the garage. He said there are significant grade changes planned.

Mr. Bertolo reviewed the revised plans. He said there will be no change to the retaining wall on the Southern side of the said driveway. He said they adjusted or added spot grades on edge of the driveway and berm on both sides of the driveway to direct runoff to infiltration structures. He said they added a secondary catch basin and infiltration at the base of the driveway near the garage (southerly) driveway sits on the proposed top of the hill, so runoff will run southerly and northerly.

Carol Malonson arrived at 6:55 p.m.

Board members discussed their concerns. Ms. Schulz asked about the 30' offset for the driveway. Mr. Bertolo stated this project had been originally approved for the house and the driveway in 2005. He said at that time a retaining wall was built and the site was cleared (or some of the site) was cleared for that project back then. He said there was some portion of the driveway that was into the 30' no-work zone but it was approved. He said that nothing was in the wetlands.

Ms. Schulz asked if the whole driveway would be impervious materials.

Mr. Bertolo stated it would be paved.

There were no further questions from commission members.

Ms. Slavin asked for public comments but there were none. Ms. Slavin stated she didn't see anything for any additional conditions

Ms. Schulz stated she believed they were asking for an additional barrier near the pool area. Mr. Bertolo stated they were putting a retaining wall in that area.

Ms. Slavin said there was a retaining wall on either side of the house where it was extremely steep. She said there would be no change to the standard order of conditions.

Ms. Schulz made a motion to close the public hearing which was seconded by Mr. Mercier. The motion passed unanimously. (5-0-0).

Ms. Schulz made a motion to accept the project with standard conditions which was seconded by Ms. Parr. The motion passed unanimously. (5-0-0).

EXTENSION REQUESTS

ENFORCEMENT ORDERS:

CERTIFICATES OF COMPLIANCE:

ANY OTHER BUSINESS/DISCUSSION AND/OR VOTE:

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

Ms. Slavin stated that the public hearing was closed. She stated there will be no discussion other than Commission members.

Ms. Malonson confirmed she did a missed meeting compliance certificate. Mr. Bartie had also missed a meeting and also provided a missed meeting compliance worksheet.

Ms. Slavin went through the hearings and who attended and was eligible to vote. She has confirmed that everyone except Nicole Locurto is eligible to vote on this decision.

Ms. Schulz read from the Wetland By-laws, Section 7.2, “to deny failure.. for failure to avoid significant impact on a resource area..”. She said they were discussing the water coming off and being diverted into areas that it wasn’t before. She said that would be an impact that wasn’t there prior to the solar panels.

Ms. Slavin stated that Mr. Pichette had left them a review of the bylaw and reasonings why to deny based on the bylaw. She read from the last section of Mr. Pichette’s review that summarized the project as a whole.

Ms. Schulz asked if the adverse clear cutting was also from Mr. Rowley’s peer review.

Ms. Slavin said that it did reference the Forest Whitney report. She said it did discuss the whole clearing as not being good.

Ms. Schulz made a motion to deny the project based on the findings of Mr. Pichette’s cumulative summary of the project and its adverse effects. Ms. Malonson seconded the motion. Ms. Slavin asked for each member’s vote, via roll call. The project was denied. (5-0-1).

DISCUSSION: SUPERCEDING ORDERS OF CONDITIONS:

Mr. Buckland advised there were two superceding orders were issued by the DEP.

He said there was a request on 42 Robinwood Road which is the 2758 the Pier project and 22 Barn Street; which the determination was requested as of this month. Mr. Buckland stated there would be a 10am onsite on 11/17 by DEP if anyone wants to attend.

Ms. Slavin reminded the board this was the house between two streets and the differences in height of the property made their home swampy.

DISCUSSION: APPOINTMENTS/INTERVIEWS/REAPPOINTMENTS:

Mr. Buckland introduced consultant, Brandon Fanuef of ECO Systems Solutions. Mr. Buckland stated they were continuously looking to hire an agent, but the board could hear the consultant and what he can provide the town as of now.

Consultant, Brandon Fanuef ECO Systems Solutions stated he would be someone to fill the gap until an agent was hired, or something else came up. Mr. Fanuef gave his background. He stated he works for the Town of Mattapoisett as well as Sutton, as a consultant. He said they do on-call, as-needed reviews in Towns as well. He reviewed the Towns they have worked in. He said they have private clients but none in this area. He said he has two wetland scientists on staff.

Mr. Fanuef proposed a consultant fee schedule for payment. He said it depends on the application, based on the different categories of NOI's, etc.

Ms. Slavin asked commission members if they had questions.

Mr. Bartie said it would be great to have more information on projects to use and asked if Mr. Fanuef had any experience with docks and piers.

Mr. Fanuef stated they have been doing a lot more piers in Mattapoisett. He said he takes direction from the chair and the commission members.

Ms. Schulz stated her concerns were with the filing and paperwork and working with their lawyer. She asked if he works in conjunction with the town's attorneys.

Mr. Buckland said if part of the process is with the attorney – he would work with him.

Ms. Schulz asked about fees.

Mr. Buckland stated that the review of the project 'in addition to' fees would apply.

Mr. Fanuef explained how his fee would work. He said the fee would be paid by the applicant and be at no cost to the Town.

Ms. Schulz asked how violations would occur if they had violations. Mr. Fanuef stated they would contact him, and he would go out and enforce any bylaws and violations.

Commission members with Mr. Fanuef spoke about fines and how to get compliance.

Mr. Buckland stated they would have to handle the money part of things and his office handles that. MS. Schulz stated her only fear would be going into it this as a temporary problem and not continuing to look for a full-time agent.

Mr. Buckland stated they do have a good quality number of conservation agents that have applied. He said they could consider this resource instead of an agent.

Mr. Faneuf said it was more like a regionalization of the services. He said they would not be in the Town, but in their private office in RI.

Mr. Buckland said that his office would control how many people can contact him as the more we contact, the fee/charge would increase.

Ms. Malonson asked if this was a per diem sort of contract. Mr. Faneuf said yes, he would fill in at this time. They continued to discuss field notes and how they have been processing the information to date.

Ms. Parr asked about the 53G account and shifting cost to the applicant, she asked if there has been pushback from a Town or applicants.

Mr. Faneuf said they have seen some pushback from applicants, however, he said it's a matter of watching the system and seeing how it works. Ms. Parr asked if his fee would apply through the life of the application.

Mr. Faneuf said that per the Wareham by-law the fee only applies to the order and determination and not the certificate of compliance. He said that he has done pro-bono work for the certificate of compliance(s) in Mattapoisett and has no problem doing them here.

Ms. Parr asked about pre-dated enforcement orders and how that would be handled per Mr. Faneuf going forward. Mr. Faneuf stated there is no fee for enforcement orders, but any after the fact RDA's or order of conditions, then they would have to file. He said he needs to be careful as seen as "self appealing", he said the commission needs to make those decision. He said Mattapoisett has a filing for a Request for Site and Support application, \$50 to have the commission go out, and look to see if they even need to file a RDA. He said he doesn't do those reviews.

Ms. Slavin said that they have allowed the conservation agent to go out and check the clearing of trees.

Mr. Faneuf reviewed his schedule of fees.

Commission members agreed that right now this choice right now is a good idea. Mr. Buckland said that they were continuing to look for an agent.

Mr. Faneuf said they would handle the RDA paperwork and anything technical.

Ms. Parr said she likes the idea of having someone who has all the technical background, but she thinks they also need to be sensitive to any pushback from applicants for the fees.

OTHER BUSINESS:

In other business, Ms. Parr asked if they were going to discuss hybrid meetings. Ms. Schulz stated that they discussed it previously and that WCTV doesn't have the personnel to cover their meetings.

Ms. Schulz made a motion to adjourn and was seconded by Ms. Lucurto. The motion passed unanimously at 8:10p.m. (6-0-0).

Date Signed: approve 12/7/22

Attest: SSS Slavin

Sandy Slavin, Chairperson
WAREHAM CONSERVATION COMMISSION

Date copy sent to Town Clerk: _____

WAREHAM TOWN CLERK
2022 DEC 14 PM 5:14