

MINUTES OF MEETING OF WAREHAM CONSERVATION COMMISSION

Date of Meeting: May 15, 2019

I. CALL MEETING TO ORDER

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

II. ROLL CALL

Members Present: Sandy Slavin, Chair
Elissa Heard
Mary Taggart
Jim Smith
Bob Lassen (Arrived at 7:03 P.M.)
David Pichette, Agent

Members Absent: Ken Baptiste
Mark Carboni, Associate

III. PRELIMINARY BUSINESS

A. Approve meeting minutes: January 16, 2019 & February 6, 2019

To be handled later in the meeting.

B. Discussion: May 29th, 2019 Meeting

Ms. Slavin stated that it is known there will not be a quorum on June 5, 2019 so it is being proposed to hold a meeting on May 29th. She asked what members would be present for a May 29th meeting. Three members stated they could attend as well as Mr. Baptiste. Ms. Slavin stated a meeting on May 29th will be arranged.

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

A. Factory Five Racing, c/o G.A.F. Engineering, Inc.

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

Mr. Pichette described the project. The property is located at 7-9 Town Road. The project involves the construction of a 12,000 sq. ft. warehouse. This application is being filed as part of the site plan review process. The proposed project is not w/in wetland resource areas or the buffer zone & is not w/in a coastal flood zone, thus, the project is not w/in jurisdictional areas. He recommended the issuance of a Negative Determination #1 & #6. The abutter notification cards have been submitted.

NOTE: Mr. Lassen arrived at this time.

MOTION: Ms. Taggart moved to close the public hearing for Factory Five Racing. Ms. Heard seconded.

VOTE: Unanimous (5-0-0)

MOTION: Ms. Heard moved to grant a Negative Determination #1 & #6 for Factory Five Racing. Ms. Taggart seconded.

VOTE: Unanimous (5-0-0)

B. RDA – Colin & Anne McNay, c/o N. Douglas Schneider & Associates, Inc.

Present before the ConCom: Dave Davignon, N. Douglas Schneider & Associates, Inc.

Mr. Pichette described the project. The property is located at 49 Warren Point Road. The project involves the demolition of an existing dwelling in the buffer zone to a coastal bank. It is proposed to demolish an existing dwelling, garage & foundations & to grade the area to match existing contours, then loam & seed the disturbed area. The existing dwelling is partially w/in the buffer zone to the coastal bank. Upon review of the property & previous aerial photos, there has been significant tree clearing on the coastal bank & w/in the buffer zone to the coastal bank that was never reviewed or approved by the ConCom. He met w/ Mr. Davignon at the site & it was confirmed this was a violation. The applicant has agreed to work w/ Mr. Davignon & a landscape architect to come up w/ a restoration plan & an NOI will be filed. For the demolition of the house, he recommends a Negative Determination.

Brief discussion ensued re: a time limit to submit the NOI. Mr. Davignon requested at least 30 days due to the case load they have at the moment. Brief discussion ensued re: issuing a fine for the violation. The ConCom members concurred. Mr. Davignon stated an NOI will be filed before July 1, 2019.

MOTION: Ms. Taggart moved to close the public hearing for Colin & Anne McNay. Ms. Heard seconded.

VOTE: Unanimous (5-0-0)

MOTION: Ms. Heard moved to grant a Negative Determination #3 for Colin & Anne McNay & further an NOI be submitted to the ConCom prior to July 1, 2019 & that a \$300.00 fine be issued. Mr. Lassen seconded.

VOTE: Unanimous (5-0-0)

C. Kenneth Nelligan – SE76-2516

Present before the ConCom: Kenneth Nelligan

Mr. Pichette described the project. The property is located at 156 Cromesett Road. The project involves the construction of a dock over a salt marsh, w/in land under the ocean & w/in a coastal flood zone. Vista pruning is also proposed w/in the salt marsh, w/in the buffer zone to the marsh & w/in a coastal flood zone. The hearing has been continued on several occasions because the initial plans submitted were not sufficient for the application. The applicant is still working on that, thus the ConCom does not have engineered plans for the proposed dock at this time. The applicant would like to update the ConCom on where things stand & discuss some other aspects of what is being proposed, such as vista pruning.

Mr. Nelligan stated he is still working on obtaining the engineered plans certified by a registered engineer. He spoke re: the vista. When the house was built, the trees were very small. Since they purchased the house, there was a vista, but now, the trees have grown very tall & obliterated the vista. They would like to restore the vista. The existing path is being encroached upon & they would like to trim the branches to cut back this encroachment. He would also like to do something to protect the roots of trees along the path. He would like to remove three deciduous trees between the house & the wall. He is looking to manage his property in a respectful way re: vegetation that is there. All the vegetation will be eliminated because of the white pines that are there. He wants to eliminate the white pines. The State is doing this in Myles Standish.

Discussion ensued. Mr. Pichette stated a more specific plan needs to be submitted before any decisions are made. Discussion ensued re: marking trees that will be kept & having an engineered plan which is a requirement.

MOTION: Ms. Taggart moved to continue the public hearing for Kenneth Nelligan to June 19, 2019. Mr. Smith seconded.

VOTE: Unanimous (5-0-0)

IV. PUBLIC HEARINGS

A. RDA – Carolyn O. Clark

The public hearing notice was read into the record.

Present before the ConCom: Carolyn O. Clark
Frederick Molton

Mr. Pichette described the project. The property is located at 21 Commonwealth Ave. in the RLDS Campgrounds. The project involves the installing a crushed stone driveway & a shed in the buffer zone to a salt marsh. A peastone parking area is proposed along the side of the house that is currently used for parking. A 10x13 ft. shed is proposed on a portion of the peastone area as shown on the plan. The work will be 35 ft. from the salt marsh. All work will be outside the 30 ft. no activity zone to the salt marsh. He recommended approval of the project w/ a Negative Determination #2.

MOTION: Ms. Heard moved to close the public hearing for Carolyn O. Clark. Ms. Taggart seconded.

VOTE: Unanimous (5-0-0)

MOTION: Ms. Heard moved to grant a Negative Determination #2 for Carolyn O. Clark. Ms. Taggart seconded.

VOTE: Unanimous (5-0-0)

B. NOI – Robert & Maryellen Stone, c/o Schnieder, Davignon & Leone, Inc.

The public hearing notice was read into the record.

Present before the ConCom: Dave Davignon, Schneider, Davignon & Leone, Inc.
Michael Silva, MJS Architecture

Mr. Pichette described the project. The property is located at 12 Canedy St. The project involves the demolition of an existing dwelling & the construction of a new larger dwelling in the buffer zone to a coastal bank, w/in riverfront area of the Sippican River & w/in a coastal flood zone. The existing 20x26 ft. dwelling is to be removed & a new 26x51 ft. dwelling is proposed partially w/in the existing dwelling footprint & then expanding back from the water towards Canedy St. The new dwelling will be pushed 11 ft. back from the top of the coastal bank from the location of the current dwelling. The site is w/in coastal flood zone AE, el. 14. The proposed building envelope does not show a specific house footprint, but rather shows a building area that would include the proposed dwelling, decks, stairs, etc. The ConCom should require the project fall w/in footprint approved by the ConCom. Drywells are proposed to handle roof runoff from the new dwelling. He recommended the proposed drywell w/in the 30 ft. no activity zone be relocated to a location outside the 30 ft. no activity zone, or that the other drywell be increased in size to handle the entire volume. This should also eliminate the need to do additional brush clearing w/in the 30 ft. no activity zone, as proposed. The driveway is proposed to remain a pervious material for erosion control silt fence & straw wattles are proposed. He recommended requiring silt fence & straw bales instead. A DEP file # has been received. He recommended the continuance of the hearing for a revised plan addressing the issues stated.

Mr. Davignon discussed the drywells & how they are improvements to what is there currently. He noted they have accounted for flood zone compliances for the building. He noted they are going to install straw wattles & silt fence.

Discussion ensued re: the project. Ms. Heard feels these conditions should be placed in the house deed so if there are other owners in the future, the conditions will be in the deed. Brief discussion ensued.

MOTION: Ms. Taggart moved to close the public hearing for Robert & Maryellen Stone. Ms. Heard seconded.

VOTE: Unanimous (5-0-0)

MOTION: Ms. Heard moved to grant an OOC w/ standard conditions for Robert & Maryellen Stone w/ the added conditions that the drywell closest to the river be removed, add haybales, provide footprint of actual dwelling & placing all conditions w/in the deed. Ms. Taggart seconded.

VOTE: Unanimous (5-0-0)

V. CONTINUED PUBLIC HEARINGS

- A. RDA – Factory Five Racing, c/o G.A.F. Engineering, Inc. (DONE)**
- B. RDA – Colin & Anne McNay, c/o N. Douglas Schneider & Associates, Inc. (DONE)**
- C. NOI – Kenneth Nelligan – SE76-2516 (DONE)**

- D. NOI – Pharmacannis Massachusetts, LLC, c/o G.A.F. Engineering, Inc. – SE76-2544**

The applicant has requested a continuance.

MOTION: Ms. Taggart moved to continue the public hearing for Pharmacannis Massachusetts, LLC to May 29, 2019. Ms. Heard seconded.

VOTE: Unanimous (5-0-0)

- E. NOI – Gary Osmund, c/o G.A.F. Engineering, Inc. – SE76-2501**

The applicant has requested a continuance.

MOTION: Ms. Taggart moved to continue the public hearing for Gary Osmund to May 29, 2019. Ms. Heard seconded.

VOTE: Unanimous (5-0-0)

- F. NOI – Rocky Road Realty Trust, Lot 4, c/o Outback Engineering, Inc. – SE76-2539**

Present before the ConCom: Jim Pavlic, Outback Engineering, Inc.

Mr. Pichette described the project. The property is located at Lot 4 on Minot Ave. The project involves the construction of a duplex in the buffer zone to BVW & w/in a coastal flood zone. A 28x72 ft. duplex is proposed 45 ft. from the edge of the BVW & w/in coastal flood zone AE, el. 14. The limit of work for the duplex project is 30 ft. from the edge of the wetland. Haybales & silt fence will be installed along the limit of work line for erosion control. It is proposed to fill

the site & construct a retaining wall around the construction area to contain the fill. The grade will be raised 5-6 ft. & the retaining wall will be 6 ft. in height. At the last meeting, it was requested that the fill be reduced & discussion re: the driveway & water runoff. Revisions were to be made on the plan. A revised plan has been submitted this evening. The fill amount doesn't look like it has been reduced.

Mr. Pavlic stated the revised plan has addressed the concerns re: the driveway & water runoff. He discussed roof drains & a rain garden. He spoke re: the fill & FEMA guidelines for construction zones. Their preference is to elevate the structure & get the lowest adjacent grade around the foundation above the flood plain. Mr. Pichette stated he has never heard of placing so much fill up around the house. He stated the house needs to be elevated anyway. Mr. Pavlic stated by filling the surrounding property above the flood elevation, it would remove it from the flood zone & eliminate flood insurance. Essentially everything will be at the same level in front of the retaining wall. One driveway would be shared. Mr. Pichette stated he is still not in favor of placing so much fill to build up this property.

Discussion ensued.

MOTION: Ms. Heard moved to close the public hearing for Rocky Road Realty Trust, Lot 4. Ms. Taggart seconded.

VOTE: Unanimous (5-0-0)

MOTION: Ms. Taggart moved to grant an OOC w/ standard conditions for Rocky Road Realty Trust, Lot 4. Ms. Heard seconded.

VOTE: Unanimous (5-0-0)

G. NOI – Southcoast Hospitals Group, Inc., c/o Farland Corp. – SE76-2497

The applicant has requested a continuance.

MOTION: Ms. Taggart moved to continue the public hearing for Southcoast Hospitals Group, Inc. to May 29, 2019. Ms. Heard seconded.

VOTE: Unanimous (5-0-0)

VI. EXTENSION REQUESTS

VII. ENFORCEMENT ORDERS

VIII. CERTIFICATES OF COMPLIANCE

A. Armand Cloutier – 69 Agawam Lake Shore Drive

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

Mr. Pichette stated there was a project approved previously to reconstruct a retaining wall & some additional work was done that involved a concrete boat ramp that was not part of the approval. In short, there were things that were done that were not permitted.

Discussion ensued re: items that were added that were not permitted. Mr. Rogers stated that on the original plan, there was a shed. It is now a seasonal bedroom/cabin. He spoke re: the seasonal dock & was shown on the original plan.

Lengthy discussion ensued re: the concrete ramp & the submerged dock & what the ConCom wants to be done w/ these two items. Mr. Rogers stated they will come back w/ an NOI & address the dock w/in the NOI, obtain an OOC, then expedite a COC. The ConCom concurred.

IX. ANY OTHER BUSINESS/DISCUSSION AND/OR VOTE

A. Discussion: Steven Caradimos – 37 Prospect Street

Present before the ConCom: Steven Caradimos
Dave Davignon, Schneider, Davignon, & Leone, Inc.
Russ Dubois, Parkside Excavation

Mr. Pichette distributed the OOC for this project. He stated the ConCom approved a project which involved the reconstruction of a seawall & construction of retaining walls to stabilize an area where there was some makeshift existing bank stabilization. The ConCom approved the project. The project commenced, but the end result is the plan was not followed. The seawall was built in the correct area, but the retaining walls were not built. One larger retaining wall was built further out. It filled out closer to the coastal bank gaining more land on top of the wall area.

Mr. Davignon spoke re: the plan & the seawall. Mr. Pichette spoke re: the coastal bank line & what has been done has spilled out into the coastal bank line on the top.

Ms. Slavin asked why the plan was not adhered to. Mr. Dubois stated the original plan was designed to curve in, but the slope did not provide for enough room for the elevation change & having the top be retained. He proceeded to discuss what he had to do to build the wall. Ms. Slavin asked why he didn't come back before the ConCom w/ an amended OOC. Mr. Dubois stated he should have come back in. He had already established the lower wall & continued to go straight up.

Mr. Pichette stated there are two issues. He feels Mr. Dubois is stating there was an engineered plan that could not be built the way it was designed. Mr. Dubois stated there are always changes in the field based on field conditions. The engineer was basing the plan solely on topography. Mr. Pichette stated that is when the engineer & the contractor need to approach the ConCom & stated the issues. A contractor cannot take it upon himself to make changes as was done. There are specific conditions in the OOC that state exactly that. He added that w/ the wall that was built is not an engineered wall & the ConCom doesn't know if it was constructed properly. The other issue is the ConCom doesn't typically allow to fill in out over a coastal bank to create more

land space. This is not an allowable activity. Mr. Dubois stated it was a very difficult job. Mr. Pichette stated another issue is neighbors were shown one set of plans for the wall, but did not have the opportunity to see what any changes would look like. The changes are now there & some neighbors have notified the ConCom office that they are very angry about this wall. One neighbor in particular is extremely upset because she has lost her views. Again, the abutters didn't have the opportunity to see any of the revisions.

Mr. Pichette added that building permits are needed for walls of that size. No building permit was ever obtained. Mr. Dubois stated the height of the wall is the same as the approved height of the wall on the parking area. Mr. Pichette stated that doesn't mean a building permit was not needed. Mr. Pichette stated the ConCom wouldn't have permitted this project as it is built now.

Mr. Davignon stated the 15 ft. area was not prohibited to have grass on it & used. Ms. Slavin stated you would have had to go down a set of stairs vs. coming right out & having more yard.

Mr. Davignon stated he doesn't recall any abutters coming forward at any prior meetings. Ms. Slavin stated they didn't expect the size of the wall that was built.

Mr. Davignon questioned what harm the wall as constructed now has on the coastal bank. He feels there has to be a compromise worked out. Discussion ensued re: how to proceed. Mr. Pichette feels there should be a design that shows an alternative design that can be built vs. the original design. Discussion continued.

Mr. Davignon discussed DEP's definition of a coastal bank. If the wall can be certified as stable, then he doesn't see why it would have to be taken down. Mr. Pichette discussed the coastal bank policy. Discussion continued.

Discussion ensued re: grass being planted.

The ConCom concurred to continue the discussion on May 29th to think about how to move forward.

NOTE: The meeting proceeded w/ item III. Preliminary Business.

1. Approve meeting minutes: January 16, 2019 & February 6, 2019

NOTE: Brief discussion ensued re: the illegal bridge built on a section of Town land that was discussed at the January 16, 2019 meeting. It was the consensus of the ConCom to have Mr. Pichette speak w/ Mr. Sullivan & Mr. Menard, Municipal Maintenance Director about removing this bridge.

Discussion ensued re: status report of Enforcement Orders. Mr. Pichette stated he is working on multiple Enforcement Orders recently & has not looked back at old ones as of yet. Ms. Slavin stated she will look at Enforcement Orders going back three years & then Mr. Pichette can review them.

MOTION: Ms. Taggart moved to approve the meeting minutes of January 16, 2019. Ms. Heard seconded.

VOTE: Unanimous (5-0-0)

Brief discussion ensued re: the Onset Bathhouse drywell/shower situation that was discussed at the February 6, 2019 meeting. Mr. Pichette stated the showers were not specifically noted in the OOC. Ms. Slavin stated that the ConCom asked for more detailed information on the showers, but somehow this got overlooked. Brief discussion ensued.

MOTION: Ms. Taggart moved to approve the meeting minutes of February 6, 2019 as corrected. Ms. Heard seconded.

VOTE: Unanimous (5-0-0)

- B. Discussion: Reappointments**
- C. Discussion: Conservation Restriction/Stewardship**
- D. Discussion: Bills**

X. ADJOURNMENT

MOTION: A motion was made & seconded to adjourn the meeting.

VOTE: Unanimous (5-0-0)

Date signed: _____

Attest: _____

Sandy Slavin, Chair

WAREHAM CONSERVATION COMMISSION

Date copy sent to Town Clerk: _____