

MINUTES OF MEETING OF WAREHAM CONSERVATION COMMISSION

Date of Meeting: June 3, 2015

I. CALL MEETING TO ORDER

The meeting was called to order at 7:07 P.M.

II. ROLL CALL

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

III. PRELIMINARY BUSINESS

A. Approval of meeting minutes: April 1, 2015.

The minutes were not handled.

IV. PUBLIC HEARINGS

A. RDA – Tracy & Ari Realty Trust

The public hearing notice was read into the record.

Present before the Commission: Ari Stamatou

Mr. Pichette described the project. The property is located at 1 Mayflower Avenue. The project involves the construction of a deck & the re-vegetation of an unpermitted alteration in the buffer zone BVW & w/in a coastal flood zone. An 8x18 ft. deck is proposed 90 ft. from the edge of the wetland along Eel Pond. Also proposed is to re-vegetate an area of vegetation that was altered w/ no approvals from the Commission along the edge of Eel Pond. He questioned what the area will be replanted with (Highbush Blueberry, Ink Bush, or Viburnum). He questioned if Conservation seed mix for ground cover will be used. He stated the applicant is stating that vegetation would start 18 ft. off the edge of the pond. He recommends that planting be done closer to the edge than that. Aerial photos show vegetation closer to the edge. With that change, he recommends approval of the project w/ a Negative #2 Determination.

MOTION: Mr. Carboni moved to close the public hearing for Tracy & Ari Realty Trust. Mr. Leggett seconded.

VOTE: Unanimous (5-0-0)

MOTION: Mr. Leggett moved to grant a Negative Determination #2 for Tracy & Ari Realty Trust. Ms. Slavin seconded.

VOTE: Unanimous (5-0-0)

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

The public hearing notice was read into the record.

Present before the Commission: Lucille Aptekar, Bourne Point Trust

Mr. Pichette described the project. The property is located at 17 Bourne Point Road. The project involves repairs to an existing pile supported pier ramp & float system in Bourne Cove. The project involves resetting several piles of the structure, which is 57 ft. 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 & a hand jet to pound the piles back into place. Barrels filled w/ water would be used to weigh 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. A DEP file number has yet to be assigned. He recommends a continuance to June 17, 2015.

It was also noted that the abutter cards were not presented.

MOTION: Mr. K. Baptiste moved to continue the public hearing for Bourne Point Trust to June 17, 2015. Mr. Smith seconded.

VOTE: Unanimous (5-0-0)

V. CONTINUED PUBLIC HEARINGS

A. 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.

MOTION: Mr. Leggett moved to continue the public hearing for Renewable Energy to June 17, 2015. Mr. Smith seconded.

VOTE: Unanimous (5-0-0)

B. NOI – David Hathaway, c/o G.A.F. Engineering, Inc. – SE76-2342

Present before the Commission: Bill Madden, G.A.F. Engineering, Inc.

Mr. Pichette described the project. The property is located at 252 Barker Road. The project involves the construction of a dock in White Island Pond. A 4x40 ft. dock is proposed out into White Island Pond. The dock structure will be an aluminum dock system that is in sections & can be removed seasonally. The sections would sit on the bottom & would not be driven in. It is proposed to drive a quad type vehicle to the dock location. He recommends that motorized vehicles stay at least 30 ft. from the edge of the wetland. A DEP file number has been assigned. He recommends the issuance of an OOC w/ the standard conditions & that the dock be stored in the off season in an upland area approved by the Commission.

MOTION: Mr. K. Baptiste moved to close the public hearing for David Hathaway. Mr. Leggett seconded.

VOTE: Unanimous (5-0-0)

MOTION: Mr. K. Baptiste moved to grant an Order of Conditions for David Hathaway w/ standard conditions & the added conditions that motorized vehicles stay at least 30 ft. from the edge of the wetland & that the dock be stored in the off season in an upland area. Mr. Leggett seconded.

VOTE: Unanimous (5-0-0)

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

Present before the Commission: Ronald Enos

NOTE: Mr. Baptiste recused himself from this hearing.

Mr. Pichette described the project. The project site is located at 18 Burgess Point Road. The project is being filed under the Wareham Wetlands Protective Bylaw only as there is already a valid final OOC under the Wetlands Protection Act for this project. The project involves the construction of a pathway w/in a bordering vegetated wetland & in the buffer zone to a bordering vegetated wetland, within a coastal flood zone, & on a coastal beach. A 4 ft. wide path & approx. 560 ft. in length is proposed to provide access to the beach from Winship Ave. The path does cross through wetlands, approx. 1185 ft. of wetland would be altered. To complete the path, several wetland replication areas totaling 1201 sq. ft. are proposed. The intent of the project is to run golf cart type vehicles over the path to access the beach. The applicant does not proposed any surface on the path or any elevated structures. Root systems to plants will not be removed. The plan shows a turn in area in the existing mowed field area at the coastal end of the path. The applicant is requesting waivers to do work in the 30 ft. no activity zone based on the recently amended Bylaw. The amendment states the Commission shall waiver or reduce the no activity zone to the extent as necessary to provide reasonable shoreline access to disabled individuals as defined by the Americans w/ Disabilities Act.

Mr. Pichette stated at the last meeting, the hearing was continued & the Commission requested input from Town Counsel on this project to determine if the information submitted qualified for

this exemption or not. Ms. Slavin has spoken to Town Counsel & he emailed Town Counsel. Town Counsel has yet to provide an opinion on this. The Commission had also requested that Town Counsel attend the next meeting if possible, but he was not available for the meeting this evening.

Mr. Pichette stated an attorney submitted a letter stating several points of opposition to the project, including whether or not the site or the applicant qualifies for the exemption. The Commission's issue now is whether they agree or disagree relative to the applicant meets the exemption. If they do agree, the Commission should issue the OOC to approve the project. If they want more information, they should continue the hearing until they can reach a decision.

Ms. Slavin stated she spoke to Town Counsel & he indicated he will speak to herself & another Commission member as to whether or not the waiver documentation received is deemed handicapped or meets the requirements for ADA. Until information is received from Town Counsel, a decision cannot be made at this time.

Present before the Commission: Peter Balzarini

Mr. Balzarini stated he stated the issue at hand is if this application qualifies under the recently adopted amendment to the Bylaw. He feels this application qualifies. Everything else has been adjudicated & settled. The only issue the Superior Court had (during an appeal) was relative to the ability of the Commission to grant waivers under the Town Bylaw. Since this was challenged, there has been a ruling that the Commission cannot grant waivers unless the project calls specifically under the exemptions that are in the law. He would like to move this matter along as quickly as possible.

Present before the Commission: _____

_____ stated the ADA law is a guideline of standards for disabilities. The actual determination of an individual is made by a doctor, not the ADA. This is how a handicapped placard is acquired in MA.

Present before the Commission: Scott Golding representing Winship, LLC

Mr. Golding submitted documentation to the Commission. He concurs the Commission needs advice from Town Counsel.

Mr. Golding stated one issue he would like to address is that of interpretation of exception _____? He feels the Commission needs to make a decision on both exceptions. He stated the document he submitted addresses his client's exception to this.

MOTION: Mr. Leggett moved to continue the public hearing for Ronald & Lois Enos to June 17, 2015. Mr. Carboni seconded.

VOTE: (4-0-0)

NOTE: Mr. Baptiste returned to the table.

- VI. EXTENSION REQUESTS**
- VII. ENFORCEMENT ORDERS**

A. Helen Carbonara – 39 Rose Point Avenue.

Discussion ensued re: the violations & issues at this address.

The Commission concurred to have Town Counsel pursue this matter.

MOTION: Mr. Baptiste moved for the Commission to request that Town Counsel pursue the matter of Helen Carbonara – 39 Rose Point Avenue. Mr. Leggett seconded.

VOTE: Unanimous (5-0-0)

- VIII. CERTIFICATES OF COMPLIANCE**
- IX. ANY OTHER BUSINESS/DISCUSSION**

A. Discussion: Wareham Land Trust – Proposed trail parking – Tweedy & Barnes.

Discussion ensued. The Commission concurred that an RDA application would suffice for this project.

B. Discussion: ConCom representative to Master Plan Committee.

It was stated that Ms. Slavin is still serving as the ConCom's representative on the Master Plan Committee.

C. Discussion: Reappointments.

Mr. Rogers stated he is quitting the Commission. He was told he had to submit a letter to the Town Clerk re: this. Everyone else up for reappointment was given a favorable nod by the Commission members.

D. Discussion: Conservation Restriction/Stewardship.

There was no discussion.

E. Discussion: Bills.

There was no discussion.

F. Discussion: Wetland Bylaw.

There was no discussion.

X. ADJOURNMENT

MOTION: Mr. Leggett moved to adjourn the meeting at 9:00 P.M. Mr. Baptiste seconded.

VOTE: Unanimous (5-0-0)

Date signed: 11/18/15

Attest: [Signature]
WAREHAM CONSERVATION COMMISSION

Date copy sent to Town Clerk: 11/19/15