

**Conservation Commission Minutes
Minutes March 12, 2015
Public Hearings
Mashpee Town Hall
Ockway Meeting Room**

Commissioners: Robert Anderson, Dale McKay, Brad Sweet, John Rogers, Ralph Shaw, Louis DiMeo (Associate Member)

Also Present: Drew McManus (Conservation Agent) and Judy Daigneault (Recording Secretary)

CALL MEETING TO ORDER: 5:55 p.m.

Public Comment

Michael Talbot announced the Nitrogen Control By-law has been signed at the State House. He said the Environmental Oversight Committee will be sending a letter to the Conservation Commission and the Board of Health to a joint meeting so discussion can begin with communication, enforcement, management and the issues of carrying out the bylaw.

PRE/POST-HEARING AGENDA:

Administrative Review: Proposed modifications to Order of Conditions SE 43-2661/ 146 Waterway. Michael Talbot, representative.

Michael Talbot, Environmental Landscape Consultants, reviewed a revised plan for Lawrence Pearce and Joan Allegrini for the proposed construction of a new home at 146 Waterway in New Seabury. He stated that the original plan was approved and an Order of Conditions was granted by the Conservation Commission, Mass DEP #SE-43-2661, on June 16, 2011. Mr. Talbot noted the plan was revised in 2013 to add a spa and downsize the house. Now the owners are choosing to reconfigure the house to keep it out of the flood zone. The house size has been reduced and moved back out of the flood zone which will allow for increasing the size of the pool. Mr. Talbot also noted that they have added outdoor living space, an outdoor kitchen and vegetable garden. The terrace will be enlarged where the turf was outlined in the original plan. The lawn area will be reduced and the native trees and shrubs have been increased. The project meets all of the performance standards.

The Agent said these changes are within the previously approved work limit. No further encroachment with the exception of a bump out for a vegetable garden. The house is being setback with a smaller foot print. There is a reduction of turf and the mitigation that was originally proposed is above and beyond what was originally called for. They will be following the nitrogen control bylaw. The Agent recommended an approval of the administrative review.

No comments from the public

Motion: Mr. Sweet moved to accept the changes to the Order of Conditions SE 43-2661/146 Waterway. Seconded by Mr. Shaw. Vote unanimous 5-0.

Barnstable County AmeriCorps Cape Cod Presentation: Update on AmeriCorps Project Tour of Mashpee – April 7, 2015 from 8:30 a.m. to 1:00 p.m.

The Agent said he has been working with the AmeriCorps Volunteers since he came to Mashpee and they are amazing to work with. They have taken on a variety of projects including cleaning up the herring runs, helping with trail work, building kiosks and benches, pollinator gardens, cleaning up parcels. He said that without AmeriCorps, any improvements you see on conservation land wouldn't be possible

Michael Quarella, Megan Liggett, Lucy Profita were present. They explained they go to towns on the Cape and work on service projects. They have worked on Quashnet River and Santuit Pond. They also hold water quality educational events in the schools. They help with the shellfish during storms and they work with organizations on long term projects. One day a week they have a community outreach day to plan certain events i.e. canal cleanup, help with after school programs. They are working with Rick York on shellfish population, shellfish assessment in Mashpee. Another component is Fire Corps which spends most of the time on the National Seashore. Mike reviewed the handouts provided to the Commissioners. The Agent announced April 7 is National Recognition of Service Day throughout Massachusetts. The event will be hosted in Mashpee this year and the County Commissioners will be going to each site to observe what AmeriCorps has been working on. The Agent said the town manager will be available along with the selectmen and the commissioners to attend this event. Mr. Sweet said he would make sure the event is covered by Mashpee TV. Rick York thanked the AmeriCorps and stated they were a critical part of the oyster work on the Mashpee River for the last ten years.

ADDITIONAL TOPICS

(This space is reserved for topics that the Chairman did not reasonably anticipate would be discussed.)

HEARINGS:

6:00 Raymond D. and Claudia L. Liberatore, 190 Waterway. Proposed modification to existing, licensed pier, ramp and float. RDA

Resource Area: LSCSF, Coastal Bank Armored

Matt Costa, Cape and Islands Engineering, was representing the applicant. The proposed project is the relocating of two pilings. They will be changing the existing pier and ramp which will require the relocation of the pilings. He noted the plan shows existing and proposed conditions. The Agent stated everything is based on a modification proposal. Mr. Costa said the footprint will be about 9% larger. There are no issues with the Shellfish Constable and the existing float is already encapsulated. Mr. Costa stated the existing pier shall have a permanent sign placed on the seaward pile, ramp and float listing the street address of the property

and the DEP #. The Agent recommended a negative determination.

Chairman Anderson noted for the record that he was the next door neighbor. He said, after speaking with the Agent, he felt there was no conflict.

No comments from the public.

Motion: Mr. Sweet moved a negative determination in regard to the application for 190 Waterway, seconded by Mr. Shaw. Vote unanimous. 5-0

The Agent noted he has been approached by homeowners due to the fact that many of their piles have popped up due to the severe weather this winter. His response to them is to send the Conservation office notification to let them know that the piles are being reset. The Agent said he didn't feel it was necessary for them to come before the Commission (unless reconstruction is substantial or the footprint is changing).

6:03 Gregory S. Bush, 55 Santuit Lane. Proposed septic system upgrade. Continued from February 12, 2015 to allow for receipt of engineered plans. Proposal has been approved by BOH. RDA

Resource Area: Inland Bank/BVW, Land Under Water

Gregory Bush, homeowner, explained the proposed project was to install a singular green septic tank with recirculation pump. He stated he has the Board of Health approval. There are some minor changes for the relocation of a retaining wall and noted the changes on the site plan. The Agent explained the order of events was that originally, the notice of intent was filed for the replacement of the foundation only. Then plans changed because the whole house had to be torn down, so the homeowner came back for an Amended Order of Conditions. At that time, the septic plan was not ready. It has now been completed and the Board of Health has approved the plans for I/A Singulair denitrifying Title V Septic system. The Agent wanted to make sure when it comes to the septic work the trees that are to be removed should be flagged for his inspection. The Agent recommended a negative determination.

No comments from the public.

Motion: Mr. Shaw moved a negative determination, seconded by Mr. Sweet. Vote 5-0

6:06 Eric H. and Dawn Peterson, 112 Wading Place Road. Request to Amend OOC 43-2594, proposed home improvements and landscaping. AOC

Resource Area: Spoonrift Cove, Salt Marsh, BVW, Coastal Bank, LSCSF

Matt Costa, Cape and Islands Engineering, represented the applicant. He stated this was a request to Amend the existing Order of Conditions (DEP SE 43-2594) to change the configuration of the previously approved additions, add a garage and house additions, deck addition, with fireplace. All work is within the previously

approved area but the proposed garage and house additions are located further away from the resource area than what was previously approved. He noted the areas that were to be re-graded and reseeded. There is a small salt marsh area that runs at the front of the area and a bordering vegetated wetland as well as land that is subject to coastal storm flow. The Applicant is proposing to put an addition on the deck and extend the roof portion and a fire pit. The proposal is not in ACEC nor in Natural Heritage jurisdiction. It meets all the sideline setbacks but will require approval from the Zoning Board of Appeals. The Agent stated the project meets the performance standards and the lawn area should meet the lawn standards which will be a condition. No part of the project is triggering mitigation. He recommended an approval of the Amended Order. Mr. Costa noted some maintenance pruning of tree limbs that overhang the house will be done.

No comments from the public.

Motion: Mr. Sweet moved to approve the amended order of conditions for 112 Wading, seconded by Mr. Shaw. Vote unanimous 5-0

6:09 Donald E. and Milica G. Pogorzelski, 4 Waterline North Drive. Proposed construction/installation of patio, walkway, pool, landscaping, and hardscaping. NOI

Resource Area: Jehu Pond, Salt Marsh, Coastal Bank, LSCSF, Salt Marsh, Bordering Vegetated Wetland, Land Under Ocean and Area of Critical Environmental Concern.

Matt Costa, Cape and Islands Engineering, represented the applicant. He stated the project proposes the following: remove the existing block patio and replace it with pervious path; remove a portion of the existing deck and replace with a patio; add a walkway; reconfigure the existing brick walk; install an in-ground swimming pool, patio and fencing; construct a pool shed; and prune four trees that are leaning against the house. There will be associated clearing, grading, utilities and maintenance at the property. Mr. Costa said the applicants are also requesting a waiver for the construction of the proposed in ground swimming pool, patio and fence within 50' of a wetland. He noted this application has also been filed with DEP. Mr. Costa noted the existing conditions and the proposed conditions on the plan. As part of the waiver request, mitigation is required. The appropriate calculations were made for the mitigation area. The waiver criteria was considered and a strategy was developed. The proposal is to introduce shellfish seed into Jehu Pond under the supervision of the Shellfish Constable. A donation will be made to the Town's donation account and will be earmarked for Shellfish. Under Rick York's control, shellfish will be seeded in the areas of Jehu Pond. In the end, there will be an improvement because there will be an increased natural vegetated buffer and improved water quality of Jehu Pond.

Rick York, Shellfish Constable, said after analyzing the proposal, he felt it is a good idea. It would help restore water quality. About 50,000 seed is being proposed in front of the house which would remove about 13 kilograms of nitrogen. Mr. Costa said there is not only a great environmental impact and benefit but also an economical benefit to the town. Mr. York said he hopes that the shellfish spawn

and will then seed other areas. It is their hope that this proposal can be used by other applicants where mitigation is required. Mr. Costa said he will be requesting a continuance to revise the project plan. Mr. York noted the shellfish beds will be open to the public since the public can fish all the way to mean high water even on private property. Mr. Costa said this type of proposal has to be used in the right situation and that this property will be in better condition after the proposal.

The Agent said often times mitigation calculations exceed the amount of actual space and plantings will be put further away from the resource area buffer zone. In lieu of that, this proposal is to take the difference because of lack of land and make up for that difference with shellfish seed. The Agent felt the shellfish seed was a good idea especially since Jehu Pond is an ACEC area and this approach has been endorsed by Shellfish Constable Rick York. In this case, he felt the size of the proposed pool, patio, shed and patio can be reduced. This could also result in additional plantings. The Agent said the site will be in a better condition that it now is. He agreed with Mr. Costa to request a continuance in order to reconfigure pool, patio and shed in order to reduce the footprint.

Mr. Costa requested a continuance in order to revise the plans.

Motion: Mr. Shaw moved to continue the hearing until March 26 at 6:12 p.m., seconded by Mr. Sweet. Vote unanimous. 5-0

6:12 Ellen Ella LLC, 19 Amy Brown Road. Proposed landscape, driveway and hardscape modifications. RDA

Resource Area: Coastal Bank

Mr. Sweet stated for the record he is an abutter to the west.

Drew Starkweather, homeowner, stated he is proposing to re-establish the landscape plan in front of the house that was approved in 1993 for the previous owner. He noted the plan and the areas that will be revamped. The cherry tree needs to be removed. The rocks will be removed from the circular driveway and some of them will be used in planter area.

The Agent noted all work is within the buffer zone to coastal bank. The modifications are all on the roadside of the house. The entire area is occupied by existing driveway, landscape and hardscape area. The driveway will be gravel with a raised planter. He said the project is basically cosmetic, with nothing occurring on the bank. He said it is entirely within the buffer zone and meets all of the performance standards. The Agent recommended a negative determination.

No comment from the public.

Motion: Mr. Shaw moved a negative determination, seconded by Mr. Sweet. Vote unanimous. 5-0

Briarwood Association Violation: Association requests continuance on violation discussion to March 26, 2015.

The Agent stated that Briarwood Association has requested to have a continuance on their violation issue to April 9, 2015.

Request by the Agent to Extend Vista Pruning Activity to April 15, 2015: original annual deadline is March 1.

The Agent requested the Commission vote to extend the Vista Pruning Activity to April 15, 2015.

Motion: Mr. Sweet moved to extend the vista pruning activity to April 15, 2015, seconded by Mr. Shaw. Vote 5-0

Boy Scout Project: Michael Quinn – trail work/signage/kiosk repair at the Mashpee River Woodlands western parcel.

The Agent informed the Commissioners that Michael Quinn, a local Boy scout, is proposing to do some trail work, kiosk repair and install trail markers on the Mashpee River Woodlands western parcel. The trail markers will be color coded at the request of the Fire Chief for emergency purposes. The work is for Michael Quinn's Eagle Badge.

Quashnet River Restoration Update: Agent working on an informational presentation to the Commission on the upper Quashnet River/Bogs and restoration scenarios. Update on Quashnet River Steering Committee's first meeting on March 6, 2015.

The Agent noted he is still working on the overall informational presentation to the commission. He encouraged reading the Haley/Aldrich Study and the berm estimate. He said he met with the Quashnet River Steering Committee. Members are from Trout Unlimited, Mass Division of Wildlife and Fisheries Service, USDA National Resource and Conservation Service and Mashpee National Wildlife Partnership Refuge. The purpose of forming this Committee is to come up with goals and objectives for this very large restoration project, to help the Agent organize, and to make recommendations to the Commission throughout this process. It is a 7 member committee and the Commissioners are welcome to attend the meetings.

Chairman Anderson noted there will be a workshop on process and procedures in Barnstable hosted by the Circuit Rider Program.

Mr. McKay said he attended a presentation at the annual conference and they talked about making Conservation meetings more productive and how to work with the Agent. It was suggested to occasionally hold a meeting to talk about procedures. Mr. McKay suggested holding such a meeting once a year. The Agent said this meeting will need to be posted as a public meeting.

Update on upcoming prescribed burning/firebreaks in the South Mashpee Pine Barrens

The Agent stated since 2012 the partnership for the Mashpee National Wildlife Partnership Refuge, which includes federal, state, tribal, Town of Falmouth, Town of Mashpee and John's Pond, Jehu Pond, Pine Barrens and Pickerel Cove has been conducting wildfire abatement work. Since 2012, there has been a lot of work as far as mechanical thinning and creating firebreaks where needed. The other activity is prescribed burning. He noted a map of the Cape showing where fire burns have been created. The service partners are the Mashpee Wampanoag Tribe, the Town of Mashpee, Mass Division of Fisheries and Wildlife, Wildlife Trust, US Fish and Wildlife Service, Natural Resource Conservation Service, Department of Conservation and Recreation and the Falmouth Rod and Gun Club.

The Agent said the other part of the work going on is habitat improvement work for the New England cottontail rabbit which is where prescribed burning comes into play. The New England cottontail is extremely rare and has very specific habitat requirements - mostly dense thickly vegetated undergrowth. It is very exclusive and close to be listed on the endangered species list. There has been a lot of work to identify areas where New England cottontails exists. He noted on a map where there have been sightings.

The Agent reviewed photos of the project sites of where fire burning has taken place which reinvigorates the growth which is a better food source, better habitat for the cottontail. The burning also reduces wildfire hazards. The next area marked to burn is Conservation land which has some wetlands. They will not be burning through the wetlands but will burn in the buffer zone. The Agent asked if the Commissioners felt a hearing will be necessary. It was agreed that an RDA will be required for the next round of burning within the areas of wetland.

Motion: Mr. Sweet moved to adjourn, seconded by Mr. Shaw. Vote unanimous 5-0.

Respectfully submitted,

Judith Daigneault,
Recording Secretary