

**Conservation Commission
Minutes of June 11, 2015
Public Hearings
Mashpee Town Hall
Waquoit Meeting Room**

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

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

Call Meeting to Order: 5:55 p.m.

The meeting was called to order with a quorum by Chairman Robert Anderson at 5:55 p.m.

There was no public comment.

Pre Post Hearing Agenda:

Approval of Minutes: May 28, 2015

Motion: Mr. Sweet moved to approve the minutes of May 28, 2015. Seconded by Mr. Rogers. Vote 4-0-1 with Mr. Anderson abstaining.

HEARINGS:

6:00 David O. and Christine Keene, 57 and 63 James Circle. Proposed freshwater seasonal dock RDA

Resource Area: [John's Pond, Inland Bank, Land Under Waterbody](#)

David and Christine Keene were present. Mr. Keene explained they have a dock that was previously designated as float and not a dock. The Agent stated this is a dock that was designated as a 10A float and should have been permitted as a dock. It is an aluminum seasonal dock and gets stored on the sandy beach area near the pond front. The Agent recommended a negative determination with two conditions. One is that the street address and DEP # be displayed on each separable section and the other is that the owner applies for a Chapter 91 license through DEP who will issue a simplified license.

No Comment from the public.

Motion: Mr. Sweet moved a negative determination with the conditions the agent has outlined, seconded by Mr. Rogers. Vote unanimous 4-0

6:03 John A. and Janet L. Hayden, 26 Cross Tree Way. Proposed addition to existing dwelling and relocation of deck stairs. NOI

Resource Area: Land Under Water, Popponeset Creek, Coastal Bank, Land Subject to Coastal Storm Flowage, Salt Marsh.

Jack Vaccaro, Environmental Consulting, was representing the owners. He reminded the commissioners that previously they approved the bulk-heading of the entire shoreline due to the fact they experienced some fairly aggressive erosion along the shoreline on Popponeset Creek. The entire water's edge has been stabilized with a timber bulkhead. The project that is being proposed is an addition on the southwest corner of the property. The addition would be a 10 by 16 foot addition and the removal of the stairs that would be shifted to the southwest. A small portion of the boardwalk would also be removed and dead ended. Mr. Vaccaro stated since there is no increase in the footprint the proposal will satisfy the department's bylaw. The Agent said the project doesn't trigger any mitigation requirements and recommended a close and issue. The Agent asked Mr. Vaccaro to inform the owner to display the street address on ramp, floats and on one of the seaward piles. The Agent noted the Board of Health comments that a septic inspection will be required and the dwelling is limited to 3 bedrooms and the addition must have a 6 foot wide cased opening to the room.

Public comment:

Mr. Hayden, the owner, stated anything that the Agent has mentioned will be taken care of. There is a sign along the bulkhead and there will be a sign along the piling and the dock. He also commented that the gangway and the dock are removed for the winter.

Motion: Mr. Sweet moved to Close and Issue, seconded by Mr. Rogers. Vote unanimous 4-0.

6:06 Frank J. and Judith A. Parker, 31 Santuit Lane. Proposed septic system upgrade. Request for continuance to 8/13/15 to allow time for revised plans. RDA

Motion: Mr. Sweet moved to continue the hearing at the applicants request to August 13 at 6:03 p.m., seconded by Mr. Rogers. Vote unanimous 4-0.

6:09 Briarwood Mashpee Association, Inc., 261 Hooppole Road. Proposed mitigation activities and mowing plan. RDA

Resource Area: John's Pond, Wetland Resource areas, Wetland Meadows, Bordering Vegetated Wetland.

Attorney Adam Brosky was present to represent the applicants along with Brad Holmes and various members of the Association. He said last April a consensus was reached on how to resolve the maintenance of the recreation area and it was agreed that an RDA would be submitted to allow for mitigation activities and the continue mowing of the recreational area. He said the Association agreed to provide a surveyed plan of the area and the commission

agreed that the mowing was a grandfathered activity. The Association was instructed to provide a maintenance plan of what was going to be done and when it would be done. Attorney Brosky asked the commission to issue a negative determination that would recognize that the mitigation activities are located in the areas subject to protection.

Brad Holmes described the mitigation activities which will improve the conditions of the resource areas. He noted the wetland areas on the plan. The four weeping willows planted within the wet meadows will be removed and replaced with wetland saplings. The drainage swale will be repaired and riprap stone added on either end. The swale will be filled with gravel so the water can run through. There are some minor channels that would be repaired with clean loam and wetlands seed mix. The other proposal is to identify and remove the non-native plants. The ongoing mowing of the area will be every other week. The mowing is not conducted during wet saturated conditions and only when allowable through the spring and the summer growing season as needed.

The Agent stated this is a result of a violation notice sent out to the Briarwood Association regarding the mowing area. After being provided with evidence of the mowing activity, the commissioners determined the mowing activity was a grandfathered activity. The commissioners asked that Conservation jurisdiction be better clarified through the delineation of the wetland area so members of Briarwood would know where the commission's jurisdiction ends. The Agent said it was great to see the delineation of the area on the plan. He said the information provided that mowing is a grandfathered activity has been proven. Supplying a plan of delineated wet meadow area helps establish the wetland area on the site. The removing of the weeping willow and replacing them with 2:1 ratio with native species is acceptable. The Applicant has supplied all of the information required in this situation and recommended the commission issue a negative determination for the RDA. The Chairman noted the commission appreciated Briarwood's cooperation.

Motion: Mr. Sweet moved a negative determination, seconded by Mr. Rogers. Vote unanimous: 4-0.

6:12 U.S. Fish and Wildlife Services, 1437 Great Hay Road, 141 Amy Brown Road, 27 Wells Road. Proposed culvert removal and stream restoration at Abigails Brook Owner of record United States of America, Town of Mashpee.

Table to later in the meeting

6:15 Keith J. and Michele E. Miranda, 29 James Circle. Proposed upgrade of seasonal dock on John's Pond. NOI

Resource Area: [Inland Bank](#), [Land Under Waterbody](#), [Coastal Bank](#).

Barbara Frappier, Warwick Associates, represented the applicants. She stated the owners would like to replace the present dock with an aluminum dock. There is upland storage for off season. They will also be filing for a Chapter 91 license. Ms. Frappier also explained

there was a lot of missing vegetation on the bank. The netting is exposed. She said this was previously permitted with the condition of the planting of native species. This was done but was neglected. The Miranda's want to restore it back to what was previously permitted. The Agent stated the stabilization of the bank should be a condition on this permit. He said the mitigation plan meets with his approval and all the specifications and species are what was originally approved. The Agent also commented that the street address must be displayed on all parts of the dock along with the DEP #.

No comments from the public

Motion: Mr. Sweet moved to Close and Issue with the condition that the mitigation requirements be taken place to restore the embankment. Seconded by Mr. Rogers. Vote unanimous 4-0

6:18 John T. Simoneau, 16 Taffrail Way. Proposed landscape and hardscape improvements and tree removal. RDA

Resource Area:

Mr. Simoneau, owner, explained his backyard is a mulched area and he would like to replace it with grass and replace the existing walkway with a new slate walkway. He also would like to remove the front two pine trees to make the backyard a more usable area. The Agent said he went over to the property and informed Mr. Simoneau the grass area would have to adhere to Conservation lawn standards. Mr. Simoneau would have to submit a receipt from the lawn company verifying they are putting in a Cape Cod conservation seed mix. The Agent stated the commission shouldn't take aesthetics into account for tree removal. Unless the trees are posing a hazardous situation, he does not recommend their removal. Following a discussion regarding mitigation for the removal of trees, the Agent agreed to meet Mr. Simoneau on his property to find a suitable location for mitigation to allow for the requested removal of the trees.

No comment from the public.

Motion: Mr. Sweet moved a negative determination regarding the proposed hardscape, landscape improvements. Seconded by Mr. Rogers. Vote unanimous 4-0

6:21 Edward L. and Sally Kazarian, 10 and 16 Waterline North Drive. Proposed removal of seventeen (17) trees and vista pruning. (Owner of record of 16 Waterline North Drive, New Seabury Properties, LLC) NOI

Resource Area: Flood Zone, Coastal Bank, Inland Bank, Land Under the Ocean.

Tom Bunker, BSS Design, represented the owners. The proposed project includes the removal of 17 trees identified on the plan and vista pruning on land owned by New Seabury property. Split ownership under one filing. The trees proposed to be removed were noted

on a plan provided. Some of the trees are too close to the house and hazardous. The Agent noted the trees on the plan and agreed with the removal of all of the trees except 6" Oak, 10" Pine, (2) 10" Oaks and 8" Oak. He said he didn't agree with the removal of these trees just to open up more sunlight to the property without any mitigation for compensation. The Agent said the vista pruning has been calculated so that the corridor meets the vista pruning regulation and the shrub level needs to be maintained at the height of six feet under the regulation. The Agent reiterated that the standards must be adhered to. The Agent agreed he could meet with the arborist to see if pruning is a viable option instead of outright removal.

No comments from the public.

Motion: Mr. Sweet moved to Close and Issue, with the condition that the five trees the Agent noted be removed from the approved plan and the Agent will meet with the arborist to review possible pruning of the five trees, Seconded by Mr. Rogers. Vote unanimous. 4-0

6:24 Richard J. and E. Ranney Lawless, Jr. 161 Daniels Island Road. Proposed additions and patio to existing dwelling and hardscape improvements. NOI

Resource Area: [LSCSF, Buffer to Coastal Bank, Coastal Bank, Salt Marsh.](#)

Tom Bunker, BSS Design, represented the owners. He distributed a revised plan and explained the applicant wants to add a 4 by 20-foot addition on the left side of the house. He noted on the photos presented. He said the steps will be moved and a roof addition will be added on the deck. The large deck at the front of the house will be removed and in place will be a porch and the steps will be moved over and then replanted. On the front side of the house there will be mulch and native shrubs. The Agent asked about the Board of Health submission. Mr. Bunker said there is no change in septic and no change in number of bedrooms.

The Agent said the Board of Health commented an inspection will be necessary. The Agent said this project doesn't trigger mitigation because part of this proposal doesn't encroach any closer to the resource area. The Agent also asked Mr. Lawless if he brought sand into the sandy beach area. Mr. Lawless said he had sand that was in tubes in front of the garage and those sand tubes were emptied out on the beach. The Agent informed Mr. Lawless that any activity moving forward needs to get authorized by the commission because it is a wetland resource area which requires a permit. The Agent recommended a close and issue.

No comment from the public.

Motion: Mr. Sweet moved to Close and Issue, seconded by Mr. Rogers. Vote unanimous 4-0

6:27 Albert J. and Geraldine A. Orlando, 240 Wheeler Road. Proposed septic system upgrade. RDA

Resource Area: Land Under Waterbody, Bordering Vegetated Wetland, and Inland Bank

Tom Bunker, BSS Design, filling in for Jeff Ryder who prepared the plan. The project is for a septic upgrade. The project is to upgrade the subsurface sewage disposal system to meet Title 5 regulations and local health regulations. Proposed work includes a new septic tank and soil absorption system within the paved driveway area. All disturbed areas by construction shall be restored to match existing conditions. The limit of work will be established prior to excavation. The wetland resource areas will be protected during the project. The Agent stated Board of Health has approved the application. The SAS is situated more than 100 feet away from the bordering vegetated wetland associated with Ashumet Pond. The Agent noted where the septic work is taking place on the photos. He recommended a negative determination.

No comment from the public.

Motion: Mr. Sweet moved a negative determination, seconded by Mr. Rogers. Vote 4-0: unanimous.

6:30 David A. Jaye, 40 Popponesset Island Road. Proposed removal of existing wood walkover structure and construction of pier, ramp and float. NOI

The Agent noted the applicant has requested a continuance to July 23, 2015 at 6:09 p.m.

Motion: Mr. Sweet moved to continue the hearing at the request of the applicant, to July 23, 2015 at 6:09, seconded by Mr. Rogers. Vote unanimous 4-0

6:12 U.S. Fish and Wildlife Services, 1437 Great Hay Road, 141 Amy Brown Road, 27 Wells Road. Proposed culvert removal and stream restoration at Abigails Brook Owner of record United States of America, Town of Mashpee.

Resource Area: Land Under Water Bodies/Waterways, Land Subject to Coastal Flooding, Salt Marsh, BVW.

Tom Eagle, U. S. Fish and Wildlife Services, explained they did the culvert work on Great Hay Road and were successful in restoring tidal flow into the system into an abandoned cranberry bog. He said the project in Abigails Brook would be to remove existing water control and restore natural stream channels. The banks of the stream will be sloped to prevent erosion. The width of the stream in this area will be tied to existing upstream and downstream bank lines. The stream bank will be reinforced with rip rap and a 30 foot long foot bridge is proposed to allow for continued pedestrian traffic and wildlife conservation.

The Agent noted the brook on the photos provided and the improvements proposed. He said stream restoration and culvert removal projects is actually endorsed by DEP. He wanted the commission to be updated on this type of work that is being conducted by the US Fish and Wildlife Services. He said, hopefully we will see herring coming through the area.

No comment from the public.

Motion: Mr. Sweet moved a negative determination, seconded by Mr. Rogers. Vote unanimous 4-0

The Agent reviewed the endorsement letters that he drafted for each of the grants that the Wampanoag Tribe has applied for. He said the first grant deadline is June 30. They are applying for a grant administered by the US Environmental Protection Agency and it is called the Healthy Communities Grant Program to improve environmental conditions; whether it is air quality, water quality, and recreational opportunities. They are applying to establish an oyster reef in Popponesset Bay in the hopes oysters will propagate these areas. Oysters are prolific filter feeders. They are proven to be beneficial to water quality. Also, the reefs act as a buffer against storm waves which can lessen the effect of shore erosion. The Agent explained at this point they are only asking for funding and that is why they are asking for the commission's endorsement. He wanted to make it absolutely clear that this is not a permit application, there is no plan to where it is going, and there are no details how large the proposal is going to be. The Agent said any entity, whether it is a tribal government or federal or state government who is trying habitat restoration on a species which was once prolific, should be endorsed by the Conservation Commission even in the absence of some more details which will be forthcoming. The next step would be to apply for a permit. Following much discussion, it was decided to have the Agent reword the letter of endorsement adding language to reflect the commission will ultimately want to review the application based on the details shown on a plan and make it known the commissioners are not endorsing the project to move forward, but are endorsing the idea. The project will have to come before the commission for proper review under the regulatory standards. Reword to reflect the commissioners support any project that supports water quality. Reword the letter making it more generic and not seem partiality towards the tribe in anyway. The Agent also noted another letter of endorsement was being requested for stream bank restoration associated with the Mashpee River. Certain areas have been scoured out overtime from waterflows for the passage of herring up the river. He will make the letter less one-sided towards the tribe and make it more generic. The commissioners agreed to sign the endorsement letters with the changes discussed.

Motion: Mr. Sweet moved to adjourn the meeting, seconded by Mr. Rogers. Vote unanimous 4-0. Meeting adjourned 7:55 p.m.

Respectfully submitted,

Judy Daigneault
Recording Secretary