

Conservation Commission
Minutes of August 13, 2015
Public Hearings
Mashpee Town Hall
Waquoit Meeting Room

Commissioners: Robert Anderson, Dale McKay, Brad Sweet and Mark Gurnee.

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: July 23, 2015

Hold until meeting on August 27, 2015

PRE/POST-HEARING AGENDA:

Mashpee Land Disposition: comments on this (8/25/15) last public comment period.

The Agent announced the second meeting of the Land Disposition Committee is accepting comments for parcels in Mashpee that are tax taking parcels that can be divided up for various uses: conservation land, affordable housing and nitrogen abatement lots for recreational purposes. The map is available on line. He noted he plans to be at the meeting.

Barnstable Cooperative Extension Service Land Management Grant applied further water testing at Santuit Pond.

The Agent referred to the last meeting where Alan Waxman gave his presentation on what the Friends group had done in investigating the aquatic weed growth at Santuit Pond. He gave a presentation to the conservation members regarding a trial raking and water sampling and found out there is higher concentration of nitrogen at the northern end of the pond. The Agent said there is a grant opportunity coming up through the Cape Cod Cooperative Extension which offers up to \$4,000 for various conservation lands or recreational opportunities. The Agent said he and Alan got together and drafted the application for the grant and submitted it because the deadline was last week. The

request was for \$2,600 which is for the cost of water sampling through UMASS Dartmouth School of Marine, Science and Technology, and general activities such as gasoline for the boat. The Agent was hopeful that the grant will be approved.

HEARINGS:

6:00 Christine E. Mone, Sand Dollar Lane. Proposed installation of kayak rack at end of Sand Dollar Lane. At request of Applicant, continued from 5/14/2015. RDA

The Agent informed the members that the applicant requested withdrawal without prejudice.

Motion: Mr. Gurnee moved to accept the withdrawal, seconded by Mr. McKay. Vote unanimous 4-0

The Agent noted the reason for the withdrawal is the applicant couldn't get unanimous permission from the land owners.

6:03 Frank J. and Judith A. Harker, 31 Santuit Lane. Proposed septic system upgrade. At request of Applicant, continued from 6/11/2015 to allow time for revised plans. RDA

Resource Area: Bordering Land Subject to Flooding

Dan Ojala, covering for Jack Vaccaro, was representing the applicant. He explained the proposed work involves the removal of the existing septic system and installation of a new Title 5 System which will be located in the same area. The septic system will include innovative alternative treatment and will be raised to provide greater separation from the groundwater. The septic system components will be contained within a series of retaining walls in order to accommodate the proposed system. He noted this is a sealed container and pumped out every couple of weeks. The system is alarmed. He noted that standard excavating equipment will be used for the installation and all disturbed areas will be stabilized upon completion. He stated there will be no impacts to the wetland areas.

The Agent stated Board of Health noted it was a fast system but now it has been modified. Plans have been submitted and have been approved.

No comments from the public.

Motion: Brad Sweet moved for a Negative Determination, seconded by Mr. Gurnee. Vote unanimous. 4-0.

6:06 Christian W. Bibbo and Lisa Pekkala-Bibbo, 124 Fells Pond Road. Proposed removal of hazardous trees. At request of Applicant, continued from 7/23/2015. RDA

Resource Area: Buffer zone to inland/coastal bank leading to Fells Pond

Chris Bibbo, applicant was present, and explained his request is to remove several trees as shown on photos he provided. He also illustrated the damage caused by the excess shade on the house including moss growth and staining to the siding. He also noted there was a tree hanging over his deck near the pond.

The Agent noted there were 6 trees in questions: 4 in the front, one in the rear and one by the pond. He said some of the trees in question would alleviate some of the problems identified in the photos. He questioned the one closer to the water. Mr. Bibbo stated this tree stains the deck. It was noted the trees are white oaks. The Agent said the trees on the left side of the property are all within the 50' to 100' buffer zone at the top of the inland bank. That is where the embankment begins and makes it way down to Fells Pond. The trees around the house are all within the buffer zone and not on the bank itself. He suggested rather than removing the tree over the deck to do some pruning to alleviate the problem.

No comment from the public

Motion: Mr. Sweet moved a Negative Determination stipulating that the tree closest to the bank be trimmed rather than be removed, seconded by Mr. McKay. Vote unanimous. 4-0

6:09 Joseph N. Biknaitis, 31 Amy Brown Road. Proposed construction of single-family dwelling, installation of potable water supply well, Title 5 Septic System and Busse Wastewater Treatment system. (Applicant Request Continuance to 9/10/2015). NOI

Motion: Mr. Sweet moved to continue the hearing at the applicant's request to September 10, 2015 at 6:00 p.m.

6:12 Thomas F. H. Trigg, 22 Fells Circle. Proposed Title 5 Septic System Upgrade. RDA

Resource Area: Buffer zone to inland bank leading to Fells Pond

Peter McEntee, Engineering Works, was representing the applicant and stated the owner will be selling his house and is required to put in a title 5 septic system. He explained the work will consist of locating, pumping and filling or removing the existing cesspools. A complete septic system will be installed and any areas disturbed will be restored with loam and seed or mulch. All work will be above the 100 year flood zone. The proposed septic tank will be located 39 feet from the BVW and the soil absorption system will be outside the 100' buffer of the inland bank and BVW. He stated approximately 6 trees will need to be removed.

The Agent stated they will have to do something to stabilize the area. Mr. McEntee said they will be putting in mulch. The Agent said he would like to get that clarified from the applicant. If they are putting in lawn, there are lawn standards and the new owner has to understand the jurisdiction of that area. He recommended having a meeting on site so they can determine what trees are to be removed and what will be done to stabilize the site. The Agent noted the Board of Health stated the plan has been submitted and under review.

No comment from the public.

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

6:15 Michael and Linda Gagnon, 180 Fells Pond Road. Proposed removal of hazardous tree. RDA

Resource Area: Inland Bank leading to Fells Pond

Michael Gagnon, applicant was present to explain his project. He explained there is a tree leaning at a 45 degree angle which is hazardous and he requested the commissioners give their approval to remove the tree. He provided pictures showing the location of the tree.

The Agent stated he inspected the tree and it is a significant hazard to existing ramp, stairway and float. The tree is top heavy and the crown is over the water and he recommended its removal as soon as possible.

No comments from the public.

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

6:18 Waquoit Bay National Estuarine Research Reserve, 0 Plains Road. Proposed removal of man-made structures from sections of Quashnet River. RDA

Resource Area: Quashnet River, Inland Bank

Mr. Jim Rassman, Manager of Waquoit Bay National Estuarine Research Reserve, explained this project. He noted the project is to remove 2 cranberry bog structures which are located between Martin Road and Route 151. One of the structures is actively collapsing and the other one is holding up pretty well. He referred to the photos provided. He said they would access the site with a back hoe to break up the structure to remove portions of it or lay it back on the bank. They are concerned the structure will crack and block the fish passage. He noted removing the debris would not be cost effective.

The Agent stated it is a necessary project and recommended a negative determination. If it were to fail and collapse it could be a serious impediment to the river and impair the fish passage. It is a good project: about restoration and alleviating potential damage. The Agent said he could be on site during the process.

No comments from the public.

Motion: Mr. Sweet moved a Negative Determination with the stipulation the Agent review any of the work to be done, seconded by Mr. Gurnee. Vote unanimous. 4-0.

Pre-Post Agenda:

Applicants for Assistant Conservation Agent. (Update)

The Agent updated the Commissioners on the interview process for the Assistant Conservation Agent. Ten finalists had interviews and they were all impressive candidates. Recommendation was to have one more round of the final four. Most of the candidates had experience in either educational or work experience related to conservation science, biology, chemistry and work experience. The finalists had a heavy emphasis on volunteer work. They all put in a significant amount of volunteer work. The final four interviews will take place next week and the final selection by the end of next week.

Town Way to Water: 7 Hamblin Pond Road (Monomoscoy) for elevated walkway over salt marsh.

The Agent updated the Commissioners on a request for proposals he will be preparing for an elevated walkway over salt marsh at the town way to water at 7 Hamblin Pond Road. The assistant town manager asked him to take a look at this lot. It is a small lot with a grassy area that can accommodate 3 cars. The trail goes out over the salt marsh. There is some discussion to upgrade the trail and the Agent suggested putting in an elevated walkway with composite board decking. He will formulate a request for proposals for engineering and contracting services to get some estimates. Depending on the cost, the town may pick up the bill and if not, maybe it is something that could be paid for out of Conservation lands and maintenance fund. There was a discussion to contact the Monomoscoy Association to see if they would be interested in the project.

•ADDITIONAL TOPICS

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

The Agent said there is one more item that he would like to give an update on to the Commissioners but the Commissioners would have to make a motion for a roll call vote to discuss Gooseberry Island and the upcoming appeal.

Motion: Dale McKay moved to take a roll call vote to discuss the Gooseberry Island and the upcoming appeal, seconded by Mr. Gurnee. Vote unanimous.

Mr. McKay, yes; Mr. Gurnee, yes; Mr. Sweet, yes; Mr. Anderson, yes.

The Agent stated that DEP has upheld the Commission's denial and the applicants have appealed again. DEP encourages that any possible discussions take place to avoid an adjudicatory hearing. The applicant's attorney submitted some proposed revisions. They propose to narrow the bridge from ten to eight feet and reduce the circumference of the piles from 14 down to 12 inch which would be the equivalent of taking out one pile. They are proposing and willing to do salt marsh restoration and they would be willing to change the orientation of the bridge. The Agent said he had a conference call with Attorney Brian Wall, Town Counsel and DEP and the outcome was for him to relay this information to the Commissioners and get their thoughts. The Agent said in his opinion it is not significant enough to represent a change or a significant enough reduction to not adversely impact the salt marsh, which was the number one reason for denial in addition to a lack of information on the house on the island. Town counsel and DEP's counsel felt these changes, while appreciated, make a minimal difference. One of the things they kept referring back to is the applicants were claiming this was akin to a dock or walkover structure and therefore would qualify and would have no adverse impact standard. There was a lengthy discussion and it was generally agreed that it is still a significant structure because it is a bridge to accommodate vehicular traffic and therefore would not be exempt from the no impact standard. It is significantly different from a dock and to try to change the footprint is not going to change the status. The Agent noted that DEP suggested using a ferry. The Agent said DEP is encouraging the applicant to come up with a scenario that doesn't involve a bridge. He also noted the land dispute is still ongoing with a side note that it is not going to affect the Conservation Commission's procedural approach to this. The pre- conference hearing will take place next week in Lakeville and the Commissioners are welcome to attend. The Agent noted some of the salt marsh has transitioned into mud flats and, therefore, a viable shellfish habitat. In addition, where they propose to do salt marsh restoration could be swapping out one resource for another, specifically the grant that circles the whole island could be a risky prospect from the tribe's prospective. Following a brief discussion, it was generally agreed that the Commissioners didn't have a full discussion with all their members but from this discussion, the majority view is the Commissioners want to stand by their original decision.

Motion: Mr. Sweet moved to adjourn the meeting, seconded by Mr. Rogers. Vote unanimous 4-0. Meeting adjourned 7:20 p.m.

Respectfully submitted,

Judy Daigneault
Recording Secretary