

## **CONSERVATION COMMISSION MINUTES**

**February 19, 2015 ~ 7 pm ~ Lower Conference Room, Bourne Town Hall**

Chm. Gray called meeting to order at 7:00 pm and explained the Commission's procedure pursuant to the Wetland Protection Act M.G.L. c. 131, s. 40 and the Bourne Wetland Protection Bylaw Article 3.7.

Note: Chm. Gray addresses the audience in regards to recording a public hearing. If anyone wishes to record a public meeting, they are free to do so, however, it must be known by the Board and the public. All cell phones are to be placed on vibrate or turned off during the meeting.

Members present: Chm. Gray, V. Chm., Martha Craig Rheinhardt, Peter Holmes (7:08 PM), Betsy Kiebala and Susan Weston.

Members excused: Rob Palumbo, Thomas Ligor and Paul Szwed.

### **Requests for Determination of Applicability**

**1 – Phil Austin**

**CC15-06**

**821 & 827 Shore Road, Pocasset**

**Remove and prune trees with an with an AE Flood Zone, within 100 FT of a Wetland Resource Area and within the 200 FT Riverfront Area**

Mr. Austin representing – applicant seeks to prune out the trees for view.

Brendan Mullaney - reviewed the property before the snow storms and was asked what the process would be to remove cedar trees in which the some were weakened and compromised. They were marked out in the field. Applicant is not looking to clear cut the area but rather thin out the area. This can be done in a phased approached and the applicant offered to replant, if necessary. He can include a condition to contact the town before any work is done.

No other board comment. No public comment.

Kiebala moved and seconded by Weston a Negative Two Determination. Unanimous vote.

**2 - Daniel Donovan**

**CC15-05**

**3 Vineyard Circle, Sagamore Beach**

**Confirm Wetland Resource Area boundaries in association with construction of new single family dwelling.**

Continued to 3/5/15.

## **Notices of Intent**

**1 – John Black & Ann Taylor**

**DEP File Number SE7-1914**

**388 Scraggy Neck Road, Cataumet**

**Construct a new single family dwelling, including Title V septic system, pool, utilities, landscaping, grading and appurtenances within AE and VE Flood Zones and within 100 FT of a Wetland Resource Area.**

Barbara Frappier, Warwick & Associates, Inc. representing – the applicant seeks to construct a single-family dwelling, install retaining walls and a small (10'x15') 'plunge' pool and remove some phragmites. The limit of work lines are set. The 50 FT no-touch buffer was pointed out on the plans and where the retaining wall will be outside of that.

Craig-Rheinhardt – asked about phragmites removal. CMS Landscape will hand cut, drip on cut, bag it and remove. The applicant originally discussed to work with the neighbor next door for removal, but for now confined to this site. If the neighbor decides to come to the board, applicant may coordinate the effort.

The landscape plan was briefly discussed. Native trees and shrubs will be added as well as two swales for rainwater. Arborvitaes and cedars are some of the native vegetation that will be used.

Brendan Mullaney – referenced the area will be mowed two times a year. This area had a previous dwelling which was destroyed due to fire damage. The proposed project meets all required setbacks for an undeveloped lot. The area of phragmites is a little over 1,000 SF. There are no major concerns with the project. Both plans are referenced in the Order of Conditions in terms of site plan, landscape plan and language for installation and maintenance.

Frappier – there will be no backwashing of the pool. Although not a saltwater pool, it is a very environmentally safe pool. It will have its own filter.

No board comment.

No public comment.

Kiebala moved and seconded by Holmes to close public hearing. Unanimous vote.

Brendan Mullaney – Draft Order of Conditions: General Conditions pursuant to MGL, Chapter 131, Section 140 and Special Conditions 1-6,9,10,12,13,16-24 and Special Conditions to the bylaw 4,6,7,8,9 and Special Condition 20-24 to continue in perpetuity.

Holmes moved and seconded by Kiebala move the Draft Notice of Intent to Final Notice of Intent. Unanimous vote.

## **2 - Mass Maritime Academy**

**SE7-1908**

**Stanley Humphries, LEC Environmental Consultants**

**101 Academy Drive, Buzzards Bay**

**Construct a waterfront protection project including a pile supported concrete pier, associated dredging and reuse of dredged material and all associated facilities, utilities and appurtenances within AE and VE Flood Zones, within a Wetland Resource Area and within 100 FT of a Wetland Resource Area  
(Continued from 1/22/15)**

Continued to 3/5/15.

## **3-Pinnacle Site Contractors, LLC**

**DEP File Number SE7-**

**JC Engineering, Inc.**

**0 Crab Rock Way, Sagamore Beach (the “Strand” below Indian Trail)**

**Construct a 750 FT long stone revetment and perform coastal bank stabilization within a VE Flood Zone and within a Wetland Resource Area**

Chm. Gray recused himself from discussion and vote. He turned the meeting over to Peter Holmes.

Brendan Mullaney – it appears there a number of private parcels that the applicant needs to cross over to get to the site, only one was notified about this project as an abutter. Therefore, no discussion will be held tonight with regard to access until said abutters are notified (7 properties in total). These property owners do not need to sign on to the application but the applicant should have written permission for temporary construction access to cross over these properties. Selectmen gave permission for access on town property, not for the private owners.

Holmes – the applicant can discuss the project tonight and the public can discuss the project itself. The access will be at another date.

Mr. Churchill representing – the applicant is proposing 750 FT stone revetment sloped 1½:1. Town Meeting voted to allow to access over the town’s property and an easement on the property itself. The coastal bank is disappearing. Homeowners tried to plant this bank to save it and it hasn’t worked. The applicant is proposing a revetment to stabilize the bank. There is no soft solution that will help the eroded areas or work in this situation.

Mr. Don Perry – handed out information and documentation from Pinnacle Site Contractors to the board. He briefly reviewed the history of the embankment, post-Nemo storm to this date.

Kiebala – asked how much erosion attributed to rain and wind. Mr. Perry said there is some but primary cause is that there is nothing protecting the toe and when the toe suffers erosion the entire embankment slides.

The proposal is to construct the revetment to protect the toe and stop the sliding, then work with the vegetation in place, coir logs and native species planted above to stabilize the face of the bank. The wording regarding vegetation and coir logs was 'as required on a property by property basis' since the areas below each property have varying characteristics and levels of erosion.

Holmes – asked about the coir logs. Mr. Perry explained It is a two year planting plan and they will be replaced as needed.

Holmes - Based on the complexity of the project, this board is not totally capable of review of the application and will require a consultant. Under MGL Chapter 44, Section 53G the board can do so and requests the applicant to provide funds in the amount of \$2,500.

Mr. Don Perry – asked if his company can work with the consultant. Brendan Mullaney explained that the chosen consultant can report to the commission only, in accordance with the regulations for hiring outside consultants. He gave an explanation of how the process works; there are certain provisions where the board can engage the services of a consultant, including an alteration greater than 500 FT to a coastal bank and impacts on municipal conservation land - this project meets this criteria two fold. The board will make a decision and inform the applicant of the chosen consultant. In addition, the board will seek services of the coastal process specialist from Woods Hole Sea Grant Program, Mr. Greg Berman. He will provide a synopsis and written review of the proposed project.

Craig-Rheinhardt moved and seconded by Kiebala to hire an outside consultant under MGL Chapter 44, Section 53G. Unanimous vote.

No further board comment.

Dr. Richard Regnante read into the record his two-page letter of why the rock revetment should not be built. Dr. Regnante refers the board to visit the stormsmart coasts state webpage. If the board moves forward, Dr. Regnante recommends to go back to square one and amend the NOI to use this toolkit and apply all methods not only on the properties themselves but also on the beach stairway, the cliff walk and the beach itself in order to avoid this negative impact from building the seawalls. He feels we need more knowledge.

Dr. Regnante also read a two-page letter dated 2/17/15 by 43 residents of Sagamore Highlands into the record seeking the board recognize the shortcomings and inadequacies of this proposal and slow down the process of approval. They ask the proposal be vetted by impartial outside experts to assist in understanding the impact on our beaches and steps. We are convinced that

with much broader consultation and more nuanced planning, it will be possible to come up with a much better proposal than the one before you now.

Mr. Walter Tonaszuck, former Town Engineer in Duxbury, spoke against the project and submitted a two-page letter dated 2/16/15 and read into the record.

Mr. Dan Reddy, 30 Sheppard Road, spoke in opposition to this project and submitted a letter dated 2/17/15.

Ms. Julie Keene, 19 Vickerson Avenue, did her own investigative work. One thing Mr. Churchill was not aware that she has been in touch with the Wildlife Fishing & Game who sent her to an office on the Cape. She asks Mr. Churchill to study the endangered species at the site, including piping plovers. She is going on record. She submitted 134-pages and 82-pages documents for the record of the draft report of the Coastal Erosion Commission. She is also here tonight because her deed states she has deeded beach easement to the beach in question. If the board votes in favor, she strongly recommends the applicant put up a bond that holds the applicant reliable.

Ms. Barbara Sullivan, represents the Jones Family, is in favor of the applicant's proposal.

Ms. Wanda Corn would like to see another proposal other than the revetment has been explored to hold the cliff together.

Eileen O'Brien raised concerns about the project, particularly where it ends.

Craig-Rheinhardt – raised concern about what the consultant's scope of work is and would like to see an alternatives analysis. Mr. Perry explained that Mr. Stan Humphries, coastal geologist, recommended a hard solution.

Mr. Ray Jussaume, 8 Sheppard Road, asked about specifications of the revetment.

Ms. Corn asked about why some of the projects further down the beach used rock and some did not. Brendan Mullaney explained that hard engineered structures are allowed in certain conditions and on certain landforms - coastal banks, while areas that are defined as coastal dune are prohibited from hard structures and must utilize soft solutions. The Wetlands Protection Act has very specific criteria for defining these landforms and associated regulations for each one.

Craig-Rheinhardt – stated she has concerns since 4 of these properties have Orders of Conditions that specifically prohibit this type of project.

Ms. Sullivan said as far as the subject of the deed restriction, Atty. Bob Troy wrote an opinion which stated the cliff belongs to the town and therefore the Orders were not applicable. Brendan Mullaney said if these orders of conditions do not apply to the subject property, then

we have no structure to protect on the subject property and therefore cannot build a revetment.

Discussion regarding next hearing date. At the request of the applicant, Craig-Rheinhardt moved and seconded by Weston to continue hearing to Monday, 4/13/15 at 7:00 PM.

**Approval of Minutes**

Kiebala moved and seconded by Holmes to approve minutes of 1/8/14 as written. Unanimous vote.

**Excuse Absent Members**

Holmes moved and seconded by Kiebala to excuse Rob Palumbo, Thomas Ligor and Paul Szwed. Unanimous vote.

Chm. Gray – under Other Business, the DOT with regard to the railroad projects are meeting under the Bourne Bridge at 10:00 AM on 2/26/15.

**Public comment**

None.

**Adjourn**

Holmes moved and seconded by Kiebala to adjourn. Meeting adjourned at 9:20 PM. Unanimous vote.

Respectfully submitted – Lisa Groezinger, sec.