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HARWICH

732 Main Street

Harwich, MA 02645

HARWICH CONSERVATION COMMISSION - MINUTES

PHONE (508)-430-7538 FAX (508)430-7531

WEDNESDAY JANUARY 4, 2023 – 6:30 PM

TOWN HALL - GRIFFIN ROOM – HYBRID PARTICIPATION

Commissioners and Staff Present: Chairman John Ketchum, Jim Atkinson, Mark Coleman, Alan Hall, Wayne Coulson, Stanley Pastuszek, Brad Chase, and Conservation Administrator Amy Usowski

Audience and Representatives Present: Dan Croteau, Angela Tanner, Jennifer Crawford, Theresa Sprague, Bill Riley, Andrew Singer, Peter Donovan, and Peter Gorey.

Call to Order

Chairman John Ketchum called the meeting to order at 6:30PM.

HEARINGS

The following applicants have filed a Notice of Intent

James & Tracy Fish, 61 Shore Rd, Map 2 Parcel B1-1. Raze & Replace Dwelling with Appurtenances and Beach Access.

Dan Croteau, of Moran Engineering, Angela Tanner (remotely) and Jennifer Crawford (remotely), Crawford Land Management, were present as representative. Mr. Croteau discussed relevant portions of the case, noting revisions after meeting with Barnstable County Geologist, Greg Berman, and changes in coverage based on the new destinations as stated on the plans. Ms. Tanner discussed specifics of the landscape mitigation plan, including an optional restoration plan to remove invasive species on the slope. She stated the proposed work would reduce the amount of impervious coverage within the 0-50 ft buffer; and the patio, step and walkways fit within the former configuration of the house.

Ms. Usowski stated Dan Angela and Greg Berman, Barnstable County Coastal Geologist, visited the site to determine if the site had a coastal bank or dune. It was determined after numerous probes the site is a dune, the previous approval from the Commission for work on the dune diminished the performance standards for a coastal dune and never received a Certificate of Compliance. She suggested some mitigation plantings on the landward edge of the dunes to provide more continuous wildlife habitat.

The Commission discussed if the previous structures were properly permitted and if the structures could be moved to be outside the 50' buffer. Ms. Usowski stated it was permitted, but no as-built was submitted to determine if everything was built to plan. Mr. Croteau responded the retaining wall will be in the same footprint of the previous retaining wall, hardscape is being removed, the property owners would like to keep the deck in the existing location

and the location of septic makes it difficult to move the house back. Ms. Tanner responded she would be amenable to moving the mitigation plantings closer to the resource area. The Commission, Ms. Usowski and Ms. Tanner discussed mitigation plantings and if the removal of invasive species on the resource area should be included on the Order of Conditions. The Commissioner would like the plantings on the dune to be included to ensure mitigation plantings are viable. However, it is not required in the ByLaws.

Mr. Atkinson moved to approve the request for a continuance to January 19th, 2023. Seconded by Mr. Coulson.
Vote: 7:0. Motion carries; request for continuance approved.

Orders of Conditions

Daniel Mento, 3 Mark Lane, Map 30 Parcel G5-3. SE32-2508. New Dwelling and appurtenances.

No discussion from the Commission

Mr. Atkinson moved to approve the Order of Conditions for SE32-2508. Seconded by Mr. Coleman.
Vote: 7:0. Motion carries; Order of Conditions approved.

Tom Smith, 47 North Rd, Map 19 Parcel S2. Amendment to SE32- 2373. Septic System Installation.

Mr. Chase asked to revise the language on Special condition 3 to clarify the tight tank removal. The Commission agreed to the revision.

Mr. Atkinson moved to approve the Amended Order of Conditions for SE32-2373 as revised. Seconded by Mr. Chase.
Vote: 7:0. Motion carries; Order of Conditions approved.

Discussion and Possible Vote

Revised Land Management and Planting Plan for 3 Skinequit Rd (SE32-2381).

Theresa Sprague, of BlueFlax Design, was present as representative and discussed the revised planting plan and current conditions of the property. Because all the oaks that were flush cut and are regenerating, she recommended the saplings be thinned to allow health regrowth of canopy vegetation, installation of a split rail fence to delineate the no-disturb zone, and removed shrub plantings where vegetation is naturally regenerating.

Ms. Usowski agreed with the revised planting plan, including the thinning of oak tress, because significant regrowth has happened. She asked if the young sapling pitch pines along the walkway near the house would be removed. Ms. Sprague responded those trees would be removed and smaller shrubs added in that area. Ms. Usowski recommended the Commission approve the new planting plan, but state that they are not confirming or approving the wetland delineation and any further work would need to be fully reviewed.

Mr. Ketchum read from the DEP Wetland Program Policy, Section 92-1, regarding wetland delineation of coastal banks. No further discussion from the board.

Mr. Atkinson moved to approved the revised land management and planting plan for SE32-2381, but within such approval, the Commission is not confirming the wetland determination shown on such plan. Seconded by Mr. Coleman.
Vote 7-0. Motion carries; revised plan approved.

Revised Restoration and Planting Plan for 151 Gorham Rd (SE32-2274) 58:00

Attorney Bill Riley and Theresa Sprague, of BlueFlax Design, were present as representatives. Ms. Sprague discussed the history of the property as it relates to Conservation Commission and the updated land management

plan noting the significant amount of invasive species regrowth to be removed and the new native plantings to supplement the existing native vegetation.

Ms. Usowski discussed the updated plan noting the habitat diversity the proposal provides and recommended the plan be approved.

Mr. Atkinson moved to approved the revised restoration and planting plan for SE32-2274. Seconded by Mr. Coleman.

Vote 7-0. Motion carries; revised plan approved.

Update on Chloe's Path

Ms. Usowski gave a recap of the Enforcement Order on Chloe's Path. She said after contacting the Engineer she was able to get an existing conditions plan for the road, but it does not contain all the items the Commission requested. She will be meeting with Mr. Riley next week to go over exactly what that plan should have and plan to file a Notice of Intent for the creation of the Box Turtle Habitat by the next deadline.

Attorney Andrew Singer and Peter Donovan were present as representatives. Attorney Singer said the Notice of Intent will be filed by the next deadline.

The Commission opened the matter for public comment.

Peter Gorey, 226 Sission Rd, asked how the owners can implement a habitat management plan before the end of the winter season, which is required by law, and can the Commission ask the owners to update the public about the NHESP (Natural Heritage and Endangered Species Program) Special Conditions or deed restrictions from the Notice of Intent in 2016.

Attorney Singer stated he cannot speak to any past implementations of the NHESP requirements, but the property owner will comply with the any conditions set forth in the new Notice of Intent but does not believe any current deed restrictions will need to be modified.

Ms. Usowski responded in terms of timing, it could be possible to implement the turtle habitat protection plan if all goes smoothly with the permitting process.

Mr. Gorey asked for clarification about why the deed restrictions and protective covenants recorded with the Registry of Deeds in 2016 do not need to be modified.

Mr. Donovan responded the 2016 permit expired and is working towards filing a new Notice of Intent.

Ms. Usowski explained that because the 2016 permit is expired, the Order of Conditions cannot be amended, and a new Notice of Intent is needed. However, it may not automatically release the restrictions on the previous permit and requested Attorney Singer send a letter to the Conservation Commission explaining how the deed restriction will not need to be modified.

The Commission will have public hearings once the Notice of Intent is filed. No action was needed by the Commission and no further discussion about the updates for Chloes Path.

Update on ongoing land management tasks:

Thompson's Field Management

Ms. Usowski stated Mark Coleman, herself and Jennifer Harrington, Harwich Animal Control Officer, met to discuss animal regulations, specifically dogs and Ms. Harrington is working to revise the bylaws to clarify what does "must

have dog under your command” mean, such as voice control. The way the bylaw is written it is difficult for Animal Control to enforce or cite any dog owners. Ms. Usowski discussed an area of Thompsons Field near Mello Lane where off-leash dogs have been getting into private yards and suggested closing the informal, social trails that lead to the road. Mr. Coleman said the Commission will have to wait for Animal Control to go through the process of updating a Bylaw, which is anticipated to go to Town Meeting this year. The Commission discussed who regulated dog waste. Mr. Chase said conservation areas can be regulated or managed differently by the Conservation Commission more than general Town Bylaws and would like to revisit the conversation of making half the trails On-Leash Only. Ms. Usowski stated having the support of the Animal Control Officer and enforceable regulations should help. The Commission and Ms. Usowski discussed the loss of nesting ground birds in Thompsons Field. The Commission agreed clearer regulations will be helpful and the Commission will revisit this discussion after Town Meeting when Bylaws might be updated.

Herring River Study

Ms. Usowski stated the draft RFP for the Herring River study with comments made by Cape Cod Commission is now available for review. The Commission discussed how to ensure the RFP is finalized in a timely fashion, areas of focus for the study and the general process of procurement. The Commission will review the draft RFP and add the Herring River Study as an Agenda item for the next meeting.

Bells Neck Land Management Plan Revision

Ms. Usowski suggested to schedule a work group session on Friday, January 27th at 2pm to discuss on the revisions to the Bells Neck Land Management Plans. The Commissioners agreed and Ms. Usowski will confirm later this week that there is a meeting room available.

Other Updates:

Ms. Usowski stated she is meeting with the newly appointed Alternate Candidate, Sophia Pilling.

Minutes

Mr. Chase amended the minutes for 2019, adding the “Chairman” to the Commissioners Present.

Mr. Atkinson moved to approve the minutes, as amended, for Dec 4th, 2019, July 6th, 2022 and July 20th 2022. Seconded by Mr. Chase.

Vote 7-0. Motion carried; minutes approved.

Adjournment

Mr. Chase moved to adjourn. Seconded by Mr. Coleman.

Vote 7-0. Motion carried; meeting adjourned.

Respectfully submitted,

Lecia McKenna