



TOWN OF

HARWICH

732 Main Street
Harwich, MA 02645

CONSERVATION COMMISSION

(508) 430-750-7538 FAX: (508) 430-7531

HARWICH CONSERVATION COMMISSION

WEDNESDAY SEPTEMBER 7, 2016

DONN B. GRIFFIN ROOM
HARWICH TOWN HALL
6:30 PM

MINUTES

PRESENT: Walter Diggs; John Rossetti; Ernie Crabtree; Rob Mador, and Conservation Administrator, Amy Usowski. Brad Chase joined the meeting at 6:35 PM.

ABSENT: Carolyn O'Leary

CALL TO ORDER

6:30 PM by Chairman, Walter Diggs

HEARINGS

CONSERVATION RESTRICTIONS

6:30 **The Compact of Cape Cod Conservation Trusts, Inc.**

1. 7.21 acres on Hinckley's Pond (Brown)
2. 14 acres on Muddy Creek (Marini)
3. 1.6 acres on Cahoon Road near Long Pond (Hipp)
4. 2 acres at Island Road (Sutphin)
5. 4.1 acres on the Reservoir (Hall)

Presenter: Michael Lach

Mr. Lach requested approval of: The Compact, the Harwich Conservation (HCT) of Cape Cod Conservation Trusts. He explained the restrictions and requested that the HCC draft a letter of recommendation to the Harwich Board of Selectmen (BOS).

Amy Usowski explained that the Compact protects the Trusts and provides for tax benefits.

Motion made by Ernie Crabtree to approve drafting a letter of recommendation to the BOS in support of the Conservation Restrictions. Seconded by John Rossetti. Vote: 5-0-0.

REQUEST FOR DETERMINATION OF APPLICABILITY

6:39 Massachusetts Division of Marine Fisheries, Pleasant Lake Avenue, Map 100 Parcels J2-1 & K4 -
Diadromous fish restoration project.

Presenters: Heinz Proft, Harwich Natural Resources Director, and Brad Chase, State Marine Biologist

Mr. Proft explained the project and the need to keep streams and ponds free of obstruction. He spoke regarding the issues and problems involved in particular with winter damage.

Mr. Chase explained the floating aluminum chute that would replace the wood structure currently used. The innovative floating aluminum chute would adjust to pond levels automatically to keep sand out. The aluminum chute would be removed seasonally to avoid ice damage. The Town of Harwich has managed the passage of migratory fish and the maintenance of the outlet for decades under agreement with *Marine Fisheries* under M.G.G. Chapter 130 Section 94 that allows for local control of river herring runs.

Amy Usowski said that the aluminum structure would not have any greater impact on the area. The Division of Marine Fisheries gave two options. She said she likes the movable because it falls and rises with water level. She recommends a Negative Determination #3.

Discussion of the following issues:

- How the structure works
- Construction of the structure
- First time tried
- Adjustment capability of the structure (between Long Pond and Hinckley's Pond)
- Structure put in in September; taken out in January; back in March for Herring Run
- Concrete option a backup, but is much more expensive and permanent
- Size and weight; movability of structure (moved off site when not in use)

An abutter (name unavailable) questioned how the equipment would get to the site and expressed concern regarding the amount of sand caught in the structure. He discussed the need for a structure. He said he feels the problems will not go away.

Mr. Chase discussed the sand flow under the structure and his optimism for the structure.

Ms. Usowski stated that the access could be conditioned.

Another abutter, Candace Wolcott, asked what will be done with the sand. She discussed destruction to the beach area in previous years.

Mr. Proft said that just enough sand will be removed to keep the water flowing.

Discussion of how far out the structure would go. Mr. Chase answered: sixteen feet.

Motion made by Ernie Crabtree to construct an aluminum structure for the diadromous fish restoration project with a Negative Determination #2 and 6. Seconded by John Rossetti. Vote: 4-0-1.

7:04 National Grid, Main Street & Queen Anne Road, Map 56, 57, 71, 73 & 83 (various parcels) -
Proposed gas main to be within existing paved roadway (Main Street & Queen Anne Road).

Presenter: Brad Malo, National Grid Engineer

Mr. Malo explained that road work for utilities is exempt under the Wetlands Protection Act, but not under the Harwich Bylaw. He explained the location of the project and the location of the wetland as well as how the gas main work is to be done. He discussed straw wattles and protective measures to be used during the project.

Amy Usowski explained that only a small portion is under the jurisdiction of the HCC. She wants the area around Herring River protected and asked for clarification of the location of the gas mains near the river.

Mr. Malo said he sees no impact of the structure. Ms. Usowski said she would recommend a Negative Determination #3 for the project.

Rob Mador asked regarding a contingency plan around the Herring River. Mr. Malo said that National Grid handles each contingency on a case by case basis and that they work in close contact with the DPW (slow approach is given time to anticipate any problems). There are time restrictions to be adhered to with DPW and the town. Work is done above the culvert.

Ernie Crabtree expressed concern regarding heavy trucks on Queen Anne Road. Mr. Malo stated that they have gone through state engineering approvals (he does not have personal knowledge) but that the protocols are the same as others used statewide and that they have been approved by the Cape Cod Commission and State Regulatory Agencies.

Brad Chase discussed sedimentation control in the river area. Mr. Malo stated that straw wattles and silt sacks around the area are used. He said that no work is done in the rain or under rainy conditions. In the particular area in question (area around the river) work would be limited to one day.

Stu Chandler from the audience asked for clarification of how deep excavation for the pipe was. Answer: 36 inches. Mr. Chandler wants the culvert pipe cleaned. He feels weight of vehicles are of concern. Mr. Malo answered that the pipes are cleaned and are of welded steel.

Motion made by Brad Chase to approve the National Grid project for Queen Anne Road with a Negative Determination #3. Seconded by Ernie Crabtree. Vote: 5-0-0.

NOTICE OF INTENT

7:33 15-17 Whipple Street LLC/Frank Sarcia, 602 Queen Anne Road, Map 83 Parcel S2 - Site
redevelopment and construction of a single family house within 100' of a bordering vegetated wetland and inland bank and within riverfront area.

Presenters: Bob Perry, Engineer, Cape Cod Engineering, Inc. and Atty. Paul Revere

Amy Usowski said she had requested plan specifics be provided. Applicant purchased property from FDIC.

Mr. Perry explained the condition of the property; proximity to wetland and the plan for cleaning up the trash and removing dilapidated buildings. The proposed plan is for a three bedroom dwelling.

Ms. Usowski had requested a Planting Plan, which was provided this evening. The Planting Plan calls for no tree removal outside the work limit; over seeding proposed in the meadow; Cape Cod lawn around the house and a reduction in the 100' buffer and increase in the 200' area.

Ms. Usowski said that this site has had extensive dumping over the years. The Board of Health and the Police have tried for years to have the site cleaned up. The cleanup was not addressed until the bank took over the property. She said she wants specifics of decrease in the 50' to 100' buffer. She said that native plantings would be a benefit. She believes the project meets performance standards for an inland bank. It is not in an endangered species habitat; roof runoff will be in dry wells and that the revision plan and planting plan have answered most of her questions. Ms. Usowski stated that getting rid of the numerous cesspools with a new Title 5 Septic is a definite improvement.

Discussion of what type of heating system was used in the old house. It is believed that it was heated by propane gas and that there are no signs of chemical dumping or paint present.

Mr. Perry said that they may need a small excavator, but that he sees no need for heavy equipment (mostly hand work).

Discussion of history of the property by Atty. Revere and size of land deeded to new purchaser. Clean up only of the wetland of about 40' into wetland anticipated. Area inside the plan is 30,000 sf.

Brad Chase said he would like to see a plan which further describes the work in the 0-50' buffer. Mr. Perry discussed the issue and need for a variance.

Discussion of new construction of 40' in the 50' buffer. New dwelling proposed with 8' cellar.
Discussion of ground water level.

Steve Chandler from the audience (an abutter) wants to be sure that in the Order of Conditions all of the tires and debris is cleaned up (mosquito problem). He said it is his hope the HCC will approve the plan.

Bill Otis from the audience asked if the plan has been approved by Building, Planning, Health, etc.

Amy Usowski said that other Boards will address some of the issues. The HCC only addresses issues related to wetland, bank marsh; ponds, etc.

Brad Chase said he would like more information and would like the project continued to September 21st.

Ernie Crabtree said he is not comfortable with the use of a bobcat in the area and wants more details for the cleanup.

Mr. Perry discussed the trash cleanup plan.

Motion made by Brad Chase to continue the project for 15-17 Whipple St. for additional information on issues discussed this evening until Sept. 21st. Seconded by John Rossetti. Vote: 5-0-0.

CHANGE IN PLAN

8:30 Wychmere Harbor Real Estate, 23 Snow Inn Road (SE 32-2216)

Dry well change to close the record for recording purposes.

Motion made by Ernie Crabtree to approve the dry well for 23 Snow Inn Road to close the record for recording purposes. Seconded by Rob Mador. Vote: 5-0-0.

SHOW CAUSE HEARING

8:32 Jeffrey Eldredge, 9 Cranberry Trail - Doing work on a parcel of land that does not belong to him as per Town Assessing Records, within the buffer zone to an Isolated Vegetated Wetland.

Motion made by Ernie Crabtree to continue 9 Cranberry Trail to Sept. 21st. Seconded by John Rossetti. Vote: 5-0-0.

DISCUSSION

8:34 Orsini, 56 Purmackene - Alternative Analysis

Presenter: Lynne Hamlyn, Hamlyn Consulting

Background information: The previous owner to Mr. Orsini at 56 Purmackene received a permit from the Conservation Commission in the 1990's to build a home within the buffer zone to an old cranberry bog. The site also had a small wetland on it that was between 3,000 -5,000 sf. Mr. Orsini has received extension permits from the state for this all along, but was told unfortunately by the predecessor to the current Conservation Administrator that when he extended with the state, it was extended under the town Bylaw as well, which is not true. Therefore, Mr. Orsini has a valid permit under the Act, but an expired one with the Town of Harwich. In 2013 the Town approved the size of regulatable wetland to go down to 3,000 sf from 5,000 sf to state standard, to better protect small wetlands. When Mr. Orsini was permitted originally the standard was 5,000 sf, so the small wetland that was onsite didn't count. The project had called to fill this in. Now, he cannot under the current Bylaw.

Several months ago Mr. Orsini came to the HCC to discuss the issue and was directed through his representative to do an Alternatives Analysis, which they have done.

Ms. Hamlyn has done the Alternatives Analysis and discussed the findings with HCC.

Amy Usowski stated:

- Conservation Commission wants to protect wetlands
- Understands that a mistake was made many years ago, and requested the Alternative Analysis
- Suggests that there be a third party review
- Use Conservation funds to pay for an assessment to determine issue of vernal pool

Rob Mador said that he has been to the site and there is 40 years of tree growth and he questions the issue of the wetland. He likes the suggestion of a third party review.

Discussion of granting a variance if findings are there is no existence of a vernal pool.

Brad Chase discussed issues of 0-50' wetland concerns and the Bordering Vegetated Wetland.

Ms. Usowski offered to draft a third party bid document using Conservation funding.

Motion made by Brad Chase to approve funding for third party review for 56 Purmackene . Seconded by John Rossetti. Vote: 5-0-0.

ORDER OF CONDITIONS:

9:02 William Jusilla , 59 North Westgate Road, Map 78, Parcel G2-1 - Construct single family dwelling.

Motion made by Ernie Crabtree to approve the Order of Conditions for 59 North Westgate Road. Seconded by Brad Chase. Vote: 5-0-0.

9:06 Ernest & Linda Crabtree, 176 Great Western Road 37, Parcel N1, (SE 32-2271) - Install dock 36' into Sand Pond.

Motion made by Brad Chase to approve the Order of Conditions 176 Great Western Road. Seconded by Rob Mador. Vote: 4-0-1.

9:05 Terence & Pamela McDermott, 151 Gorham Road, Map 24, Parcel R1-1 - Restoration and mitigation of unauthorized cutting of vegetation within land subject to coastal storm flowage and the buffer zone in a bordering vegetated wetland,

Motion made by Ernie Crabtree to approve the Order of Conditions for 151 Gorham Road. Seconded by Brad Chase. Vote: 5-0-0.

CERTIFICATES OF COMPLIANCE

9:04 Heaney & Small, LLC, 39 Strandway, Map 1 Parcel J1-31A (SE 32-1938)

Motion made by Walter Diggs to approve the Certificate of Compliance for 39 Strandway. Seconded by Brad Chase. Vote: 5-0-0.

9:10 Colin & Robin Fuller, 26 Kevin Road, Map 81, Parcel A32 (SE 32-2177)

Motion made by Ernie Crabtree to approve the Certificate of Compliance for 26 Kevin Road. Seconded by Brad Chase. Vote: 5-0-0.

9:11 Natalie Ricci c/o Atty. Mark Russell, 0 Gilbert Lane, Map 30 Parcel D3 (SE 32-1233)

Motion made by Brad Chase for Certificate of Compliance for invalid application for 0 Gilbert Lane. Seconded by Ernie Crabtree. Vote: 5-0-0.

9:11 Natalie Ricci c/o Atty. Mark Russell, 0 Gilbert Lane, Map 30 Parcel D3 (SE 32-1273)

Motion made by Brad Chase to approve the Certificate of Compliance for 0 Gilbert Lane. Seconded by Ernie Crabtree. Vote: 5-0-0.

MINUTES

Minutes of August 17, 2016

Motion made by Ernie Crabtree to approve the Minutes August 17, 2016 with edits. Seconded by Rob Mador. Vote: 5-0-0.

DISCUSSION

- Evacuation Plan and Protocol in Hostile Situation
- Fertilizer and Irrigation in 0-50' with assignments for research

ADJOURN

Motion Made by Brad Chase to adjourn at 9:35 PM. Seconded by Rob Mador. All in Favor.

Minutes transcribed by Board Secretary, Marie Hickey

**SIGN IN SHEET
Donn B. Griffin Room
September 7, 2016**

**Stephen Chandler
Brad Malo
Candace Wolcott
Thomas Wolcott
Steve Lawson
Heinz Proft
Derith Marjollet
Jean-Paul Marjollet
Michael Lach
Bob Perry
Atty. Paul Revere
Stu Chandler**

Coastal Engineering

*WW Diggs
9-21-16*

