**TOWN OF  HARWICH**

***732 Main Street***

***Harwich, MA 02645***

**CONSERVATION COMMISSION (508)-430-7538 FAX (508)430-7531**

**HARWICH CONSERVATION COMMISSION – MINUTES**

**WEDNESDAY, DECEMBER 4, 2019 - 6:30 P.M.**

**SMALL HEARING ROOM, HARWICH TOWN HALL**

**Commissioners and Staff Present:** ChairmanBrad Chase,Mark Coleman, John Ketchum, Stanley Pastuszak, Carolyn O’Leary, James Donovan, and Conservation Administrator Amy Usowski.

Commission members absent: Paula McGuire and Associate Member Ernest Crabtree

**Audience:** Adelson Aristhomene, Thadd Eldredge, David Lyttle, Philip Cheney, Larry Ballantine

**Call to Order**

By Chairman Brad Chase

**HEARINGS**

**Notices of Intent**

**Mary Judge, 6 & 10 Neel Rd, Map 9 Parcel A7-1 & 2.** Shorefront protection.

Ms. Usowski stated that the applicant had requested a continuance to the December 18, 2019 meeting as they were still awaiting NHESP review. The applicant had also requested that the Commission allow them to construct the stairs under an Administrative permit, and keep the nourishment and fencing as part of the Notice of Intent. Commission members requested that an as-built be required if the stairs were approved under an Administrative permit. Mr. Donovan requested that the steps be constructed at the shorter length, with the option of extending the stairs if the dune nourishment portion of the project was approved.

Mr. Chase moved to approve the continuance to the December 18, 2019 meeting. Seconded by Mr. Donovan. Motion carried, 6-0.

**Jim Palermo, 27 Strandway, Map 1 Parcel J1-34.** Hardscaping and planting.

Adelson Aristhomene, A’s Landscaping, was present as representative. Thadd Eldredge, East Southeast, was also present. Mr. Eldredge stated that the plans had been revised to include the questions that the Commission had at the last meeting, including mitigation and the square footage of the existing pavers. Ms. Usowski stated that the existing pavers were present when the old Certificate of Compliance was issued, so the Commission did have to consider them to be permitted. Ms. Usowski reviewed the required square footage calculations, stating that there was an increase of 100sqft in to 50-100ft buffer, and an increase of 402sqft in the 0-50ft buffer. This increase would require a total of 1406sqft of mitigation, and the applicant proposed 1420sqft of mitigation in the form of new plantings along the edge of the existing lawn area. Ms. Usowski stated that a variance could be granted for this project, since the net benefit would be substantial, and recommended approval with the conditions that the planting areas be left to naturalize after completion, that some woody shrubs be added to the mitigation areas, that the use of fertilizers and chemicals cease within Conservation jurisdiction, and that the patio and walkway remain pervious.

Ms. O’Leary expressed concern that, if this project was approved, it would be considered structure in the future, and could be turned into habitable space. Ms. Usowski responded that they could condition that the patio was not to become habitable space. Mr. Ketchum asked where the trees and other mitigation plantings would go within the areas shown on the plan, and Mr. Aristhomene gave more detail. Ms. Usowski stated that she would be happy to work with Mr. Aristhomene to come up with a plan that would properly space the plants. Mr. Donovan and Mr. Chase asked that the applicant add 2 cedar trees, 6 bayberry, and 8 beach plum.

Mr. Donovan moved to approve the Notice of Intent with discussed conditions regarding fertilizers and chemicals, mitigation plantings, permeability of the patio, and the patio not becoming habitable space. Seconded by Mr. Coleman. Motion carried, 6-0.

**Michael & Jennifer Monteiro, 11 Braddock St, Map 7 Parcel F19.** Demo and rebuild dwelling. **Applicant has requested a continuance to December 18, 2019.**

Mr. Chase moved to approve the continuance request. Seconded by Mr. Pastuszak. Motion carried, 6-0.

**Richard & Cathy Boskey, 2 Lake Shore Dr, Map 110 Parcel A2.** Remove existing garage, deck renovations, construction of new garage and addition.

David Lyttle of Ryder and Wilcox and Philip Cheney, landscape designer, were present as representatives. Mr. Lyttle explained that the owners had previously received approval to build an accessory dwelling, but they had decided to scale the project back quite a bit, so they would be looking to close out that Order of Conditions, and permit a new project that would include the removal of the existing garage, deck expansion, and construction of a new garage and addition. The structures would be outside of the 60ft buffer zone, and a mitigation plan had been prepared that proposed double the required square footage. Mr. Lyttle reminded the Commission that the past approval was conditioned so that the illegal expansion of deck closer to the water had to be removed, but the owners had requested that they be able to keep that deck and hoped that the scaled back project and expanded mitigation plan would be enough to allow that deck to remain. Mr. Cheney gave detail on the mitigation plan, and added that they would like to eliminate the winding boardwalk that branched off from the deck as well. Ms. Usowski stated that the proposed mitigation would enhance the buffer zone to the pond, so approval for the proposed construction and deck expansion would be pretty straightforward, but that the deck closer to the water was trickier. Ms. Usowski asked if the owners would be willing to put a restriction on the neighboring lot, and Mr. Lyttle stated that he would check with his clients.

Mr. Donovan stated that the areas proposed for mitigation were already semi-natural, so he would prefer to see another section of plantings be added to the existing buffer to the pond. Ms. O’Leary expressed concern that part of the mitigation area was likely to naturalize on its own, so that area may not qualify as mitigation. Mr. Pastuszak stated that he would be in favor of a restriction on the neighboring lot. Mr. Ketchum asked for clarification on the square footage and mitigation numbers, and Mr. Lyttle responded that there was 886sqft of proposed additional coverage in the 50-100ft buffer, and that they proposed 2100sqft of mitigation which was over the 2:1 mitigation required. Mr. Ketchum responded that he did not see the planting of the already naturalizing area as full mitigation, and asked that they provide more information for the unpermitted deck as it would need to be mitigated for at 3:1 since it was in the 0-50ft buffer. Mr. Coleman asked whether the garage would be made into habitable space at some point, and Mr. Lyttle responded that there would be no utilities in the garage other than electricity. Mr. Chase stated that the only option that he could see for allowing the deck area to remain would be the restriction on the neighboring property.

Mr. Lyttle requested a continuance to the January 8, 2020. Mr. Chase moved to continue the hearing. Seconded by Mr. Pastuszak. Motion carried, 6-0.

**Orders of Conditions**

**Joseph Preston, 0 Sequattom Road, Map 101 Parcel W2-C.** Site improvements and repairs.

Ms. Usowski stated that the applicant had added 5 sweet pepperbush, 3 inkberry, and native grasses to the mitigation plan in front of the wall, as requested by the Commission at the last hearing.

Mr. Donovan asked that a condition be added that Planting Area 1 not become beach. Mr. Ketchum made a grammatical correction.

Mr. Chase moved to approve the Order of Conditions with the discussed changes. Seconded by Mr. Coleman. Motion carried, 6-0.

**William Gibson, 14 Sequattom Rd, Map 101 Parcel R-3.** New dwelling.

Mr. Chase moved to approve the Order of Conditions with the discussed changes. Seconded by Mr. Coleman. Motion carried, 6-0.

**Carolyn Robinson & Marjorie Pinto-Leite, 2 Ocean Ave, 1 Zylpha Rd, 5 Atlantic St, Map 6B Parcels L21, H2-1, L154.** Replacement of bulkhead.

Mr. Chase asked if there had been specific dimensions applied to the planting areas furthest seaward, and Mr. Donovan responded that the strip was approved as a three foot strip, and would be similar to what was existing. Ms. Usowski stated that she would add a bit of detail to that condition to make it clear.

Mr. Donovan moved to approve the Order of Conditions with the discussed changes. Seconded by Mr. Coleman. Motion carried, 6-0.

**Requests for Certificates of Compliance**

**Roberta Dudeck, 53 North Rd, Map 19 Parcel M1.** Repair revetment.

Ms. Usowski stated that the cap had been installed vertically, rather than at an angle as approved, but that the overall height was still within the approved limit. Ms. Usowski recommended approval as she did not see any adverse impact from the changes, but that she would condition that the wall would be built as approved originally if it was ever damaged or needed to be redone. Mr. Donovan asked if the plantings had been installed and had survived the correct amount of time, and Ms. Usowski responded that they had. Mr. Coleman asked whether they would need to return to the Commission for maintenance of the structure, and Ms. Usowski responded that they would and that she would condition that as well.

Mr. Pastuszak moved to approve the Certificate of Compliance with the discussed ongoing conditions. Seconded by Mr. Ketchum. Motion carried, 4-2, Mr. Coleman and Mr. Donovan opposed.

**Minor Change in Plan**

**Steve Walsh, 9 Fiddler’s Landing, Map 6 Parcel A1-9.** Addition of stepping stones.

Ms. Usowski stated that these stepping stones were to be spaced 18-20” apart, so she would recommend approval of this change. Commission members requested that the change be conditioned so that the stones could not be larger or closer spaced than the plan showed.

Mr. Chase moved to approve the Change in Plan. Seconded by Mr. Coleman. Motion carried, 6-0.

**Discussion and Possible Vote**

**Prioritization of Land Management Activities to give to Community Preservation Committee (CPC) to support CPA article request**

Ms. Usowski explained that CPC had requested more detail on what the requested funds would be used for, and a list of priority projects. Mr. Donovan and Mr. Ketchum stated that the committee was generally in favor of awarding these funds, but just wanted a bit more information. Ms. Usowski stated that she would like to list Robbins Pond Conservation Area as one of the priority properties, as there had been a lot of unpermitted activity on this property, especially since the land itself had been purchased with CPC fund. Mr. Donovan expressed that he would like to see heavy duty gates installed with pedestrian access still allowed to the side of the gate, and stated that the other property that would need to be gated would be Bells Neck for access to the Herring Run. Mr. Coleman asked if they could request a large amount of split rail fencing, as it was constantly needed at different properties, and Mr. Donovan said he thought that would be very doable. Ms. Usowski stated that she would get an estimate and see what would fit into that budget for fencing. The Commission agreed that the priorities should be gates, fencing, signage, and trail cameras for Conservation properties, and in particular for Bells Neck and Robbins Pond.

**Wetlands Protection Bylaw and Water Dependent Structures Bylaw and Regulations proposed changes**

Ms. Usowski stated that she had started to draft the requested changes, and that she planned to have them ready for the January 8, 2020 meeting so that the changes could make it on the Town Meeting warrant if approved.

**ANY OTHER BUSINESS WHICH MAY COME BEFORE THE COMMISSION**

Ms. Usowski reminded Commission members that the annual meeting of the Massachusetts Association of Conservation Commissions was upcoming in February, so if any of them wanted to attend, the Conservation Department would pay for their tickets.

Ms. Usowski informed the Commission that the emergency bulkhead repair in Wychmere Harbor was slated to start in the week of December 9, 2019. Ms. Usowski stated that the deadline for the after-the-fact NOI following the Emergency Certification for the cleanup of the Sisson Rd fuel spill, so they should be seeing that submitted soon.

Ms. Usowski told the Commission that the Municipal Vulnerability Preparedness program would have some upcoming programs and information for them.

Mr. Chase requested that Commission Members brainstorm ideas for Wetland Protection and Water Dependent Structure Bylaw changes prior to the January 8, 2020 meeting.

**Adjournment**

**Mr. Chase moved to adjourn the regular meeting of the Conservation Commission and enter into Executive Session at 9:00PM. Seconded by Mr. Pastuszak. Motion carried, 6-0.**

Respectfully submitted,   
Melyssa Millett

Approved: 1/4/2023