**TOWN OF  HARWICH**

***732 Main Street***

***Harwich, MA 02645***

**HARWICH CONSERVATION COMMISSION – MINUTES**

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

**WEDNESDAY, NOVEMBER 6, 2019--6:30 P.M.**

**GRIFFIN ROOM, HARWICH TOWN HALL**

**Commissioners and Staff Present:** Carolyn O’Leary,James Donovan, Brad Chase, Stanley Pastuszak, Mark Coleman, Associate Member Ernie Crabtree, and Conservation Administrator Amy Usowski

Commissioners Absent: Paula McGuire, John Ketchum

**Audience:** Don Munroe, David Riquinha, Matt Farrell, Bill Gibson, Dan Croteau, Stephanie Sequin, Kimberly Mercurio, Adam Titrington, Marion Hobbs, Cole Bateman, Craig Borden, Gabrielle Sakolsky, Paul Eldredge

**Call to Order**

By Chairman Brad Chase

**HEARINGS**

**Request for Determination of Applicability**

**Ted Damico & Yvette Cozier, 11 Nehoiden Street, Map 12 Parcel 3X-3A.** Replace a screened-in porch and car port on a slab foundation with an addition on a crawl-space foundation.

The applicant had requested a continuance to the December 18, 2019 meeting. Mr. Chase moved to approve the continuance request. Seconded by Mr. Pastuszak. Motion carried, 5-0.

**Notices of Intent**

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

Don Munroe, Coastal Engineering, explained that they had heard back from NHESP and Greg Berman, and had included their recommendations in the project revisions which were shown on the revised site plan. Ms. Usowski stated that they had not yet received the conditions that NHESP would like incorporated into the Order of Conditions, so a vote should wait until they received that. Ms. Usowski mentioned that there was some concern that there was eel grass in the vicinity, but the ideal time for eel grass surveys had passed, but that the Natural Resource Director had stated that he did not think there was eel grass in that area. Ms. Usowski added that Greg Berman had recommended that the snow fencing that was being used to help trap sand be less substantial, and buried if possible so that it was less structural.

Commissioners expressed concern that the efforts to keep the beach from eroding were resulting in more debris entering the water, and that continued nourishment may smother shellfish or negatively affect other properties as it eroded. Commissioners asked whether the project could be done in parts to see if the nourishment was really needed after other components of the project were complete, and Mr. Munroe responded that the DEP and NHESP preferred that the project be considered as a whole so that the total impact of the project could be assessed, and that the nourishment was necessary to keep the habitat at a 10:1 slope as nesting shorebirds preferred, and should not have an impact on other resource areas since shellfish and eel grass were not concerns near this property. Mr. Crabtree asked if the entire length of the dune needed to be fenced, and Mr. Munroe responded that they would like to fence at least between the two groins so that a more usable beach area could be established for the owner. Ms. Usowski stated that, regardless of whether nourishment was put down or not, sand will continue to erode and will continue to affect other properties. Ms. O’Leary asked if the replenishment of sand would be ongoing, and Mr. Munroe responded that it would. Mr. Chase stated that he would prefer to see no nourishment below Mean High Water (MHW), and asked if an eel grass survey could be completed prior to the work being done on the groins. David Riquinha, contractor, stated that they were only looking to complete the access walkway this year, and would be open to holding off on the groin work until after an eel grass survey was completed. The Commission questioned whether the walkway should extend past the existing dune before the dune was replenished, and concluded that the hearing should be continued to wait for NHESP review. Mr. Chase asked that the applicants consider removing one groin as an alternative to rebuilding them. Mr. Munroe stated that they would also consider separating the project to be the dune and stairway, followed by an Amendment or separate NOI for the groin work and nourishment following the eel grass survey and NHESP review.

Mr. Chase moved to continue the hearing to November 20, 2019. Seconded by Mr. Pastuszak. Motion carried, 5-0.

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

Matt Farrell, JM O’Reilly and Associates, was present as representative, along with owner, Bill Gibson. Mr. Farrell introduced the changes that had been made to the proposed mitigation plan following the last hearing. Ms. Usowski stated that her concern was the creep toward the water, and that if they desired the patio to be the proposed size, they could either shift the house back, or move the patio to the side of the dwelling.

Mr. Crabtree and Mr. Chase agreed that the patio should not be that close to the resource area. Mr. Donovan asked how much closer the proposed structure would be to the wetland than the existing, and Mr. Farrell responded that it was about 8ft. Mr. Farrell and Mr. Gibson stated that they would make the patio smaller. Ms. Usowski asked the Commission how much mitigation they would consider for removal of invasive species and replanting those areas, and Mr. Donovan responded that he was in favor of it.

Mr. Chase moved to continue the hearing to November 20, 2019. Seconded by Mr. Coleman. Motion carried, 5-0.

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

Dan Croteau, Moran Engineering, was present as representative. Mr. Croteau explained that this hearing had been continued from past meeting, and introduced the changes that had been made to the plan, including the size, location, and diversity of planting areas. Ms. Usowski stated that she thought the changes would result in better slope stability and would be beneficial to the pond.

Mr. Coleman stated that he was satisfied with the changes that had been made. Mr. Donovan stated that he was still concerned with an expansion of an existing bulkhead-like structure, and would like to see only plantings used to stabilize the bank. Mr. Crabtree agreed. Mr. Croteau responded that the wall would never have water up against it so there could be plantings in front of it, but that the wall could be moved back slightly. Mr. Coleman stated that he saw the wall as a solution to the erosion issue, and that he thought the area pond-ward of the wall could and should be planted as well. Ms. Usowski stated that the rock wall could also be covered with sand, which would allow the plants to hold more, and would provide some nourishment for the beach in winter storms. Mr. Chase stated that he would favor pushing the wall back a bit, with plantings below and above the wall. Mr. Chase asked whether any Commission members were opposed to approving the project without seeing the plans, and, hearing no comments, called for a motion.

Mr. Coleman moved to approve the project, with the discussed revision to the Plan. Seconded by Mr. Pastuszak. Motion carried, 5-0.

**Michael & Jennifer Monteiro, 11 Braddock Street, Map 7 Parcel F19.** Proposed demolition of an existing single family dwelling, and the reconstruction of a new single family dwelling, pool, septic system, utilities, hardscape, and landscaping.

Stephanie Sequin, Ryder and Wilcox, presented the project, along with Kimberly Mercurio, Landscape Designer, and Adam Titrington, Architect. Ms. Sequin introduced the project, and gave an overview of the resource area boundaries, the existing structures and septic system, and the new proposed four-bedroom house, septic system, and hardscape. Ms. Mercurio gave a detailed description of the plantings proposed for mitigation and around the site. Mr. Titrington stated that they had designed the house using alternative ecofriendly products, and had tried to make the footprint small and as far from the resource areas as possible. Ms. Usowski mentioned that the plantings that were more decorative would not be considered mitigation, though they would be an improvement over lawn. Ms. Usowski stated that an increase within the 0-50ft no-disturb-zone was generally discouraged, but the Commission may grant a variance if they thought the proposed mitigation would improve the resource area, in this case the coastal dune. Ms. Usowski added that, while the proposed project was a few feet further from the dune, they would need to prove that the expansion within the 0-50ft buffer would not have an adverse impact on the performance standards of the dune, and the proposed project may serve as a barrier to the movement of the dune. Ms. Usowski was curious whether the Commission would rather the house be moved back from the dune into Flood Plain.

Commission members questioned why the project could not be moved out of the 50ft buffer. Mr. Titrington explained that the current design had utilities in the basement of the house, which would not be possible if the house was in Flood Plain. Commission members stated that the dune was a higher value resource than the Flood Plain, so they would prefer that the house be moved back further from the dune. Mr. Crabtree stated that he did not think that the removal of a pervious driveway was equivalent to hard structure, so he would like to see the comparison of existing versus proposed pervious versus impervious coverage. Ms. Sequin stated that they could provide that, and would get in touch with the Building Commissioner and see what the constraints would be for moving the proposed structure into the setback, since it seemed that the Commission would be amendable to that change. Ms. Usowski mentioned that there were some areas, like the dry laid pavers, deck, and pool, where hardscape or coverage could be reduced without moving the entire house. Mr. Chase reiterated that the Commission was not pleased with the expansion of structure and hardscape within the 0-50ft buffer, so that is where they should focus any revisions.

Ms. Sequin requested a continuance to the December 4, 2019 meeting. Mr. Pastuszak moved to continue the hearing. Seconded by Mr. Donovan. Motion carried, 5-0.

**Discussion and possible vote**

**Emergency Certification Request by Wychmere Harbor Real Estate for 23 and 33 Snow Inn Road. Request to enhance failing shoreline protection and shore up existing boat house.**

Don Munroe and Cole Bateman, Coastal Engineering, explained that they had met onsite with Ms. Usowski and the Building Inspector, and that the boathouse and shoreline protection was failing quite substantially, so they had submitted plans for an emergency repair to prevent the boathouse from falling into the harbor. The repair would include a shorter bulkhead in front of the northern section of the wall, with about 7ft of the bulkhead exposed, a separate bulkhead in front of the wall that had not been repaired previously and deep foundation systems to sure up the bulkhead, and finally putting in an over wash bulkhead in front of the section of wall for Wychmere Beach Club, with rip rap filling in behind the bulkhead to restore the slope.

Mr. Chase questioned why this was being presented as an emergency project since these problems were observed back in April, in which time a Notice of Intent could have been filed. Mr. Munroe explained that the assessment and plans took a few months to prepare, and by the time they were finished the wall was in very bad condition and was now an emergency. Mr. Chase stated that he did not think all portions of the proposed project were necessary at this time, so he would like to see some of these changes as a Notice of Intent instead. Mr. Munroe stated that they had town officials and experts who had concluded that this was an emergency, and that all of the proposed changed were necessary to keep the wall from failing. Ms. Usowski stated that this project was in front of the Commission because it was such a large amount of work, and that she had not felt comfortable approving this as an Emergency Certification without the Commission’s input. Mr. Chase reiterated that he did not think that all portions of this project were an emergency and that he would like more time to review the project, and Mr. Munroe responded that the project was an emergency. Mr. Pastuszak asked why it took seven months to reach the conclusion that an emergency repair was necessary, and Mr. Bateman responded that the wall was not a problem when the assessment of the boathouse was started in April, and that the wall was being included because it had started to fail more recently, and the two emergency repairs were necessary at this time. Mr. Coleman asked whether the vibratory driving of the sheet piles could cause the existing structure to fail, and Mr. Bateman responded that it could, but they would be monitoring it throughout the project. Ms. Usowski explained that they were only permitted to allow only what was necessary to prevent public safety issues under and Emergency Certification, and told the Commission that they would see an after-the-fact Notice of Intent for this work regardless. Ms. Usowski asked if there was any way to minimize the scope of the project so that a larger review could be done of the more permanent solution, and Mr. Bateman stated that there were more temporary options that could be employed, but they may not last through winter or until other permits could be secured.

Mr. Donovan and Mr. Chase stated that they felt the emergency certification should be for a temporary fix, but that they were more concerned with the process. Mr. Coleman stated that he did see this is an emergency, and supported the issuance of the Emergency Certification. Overall, the Commission voiced support for Ms. Usowski to issue the Emergency Certification, but noted that they would like more time to review materials if the Commission’s input was needed on an Emergency Certification in the future. Mr. Munroe assured the Commission that they would be very involved with the project and would be sure that any conditions placed by Ms. Usowski would be followed.

**Violation of Order of Conditions SE 32-2266, Craig and Terrie Borden, 2A Hinckley Road (previously 424 Pleasant Lake Avenue).**

Ms. Usowski explained that the walkway, which was approved to be stepping stones set into the bank, was instead timber steps with dry-laid brick on the surface and a landing part-way up the slope. Mr. Borden explained the process that had led him to these changes, and that he had assumed that the change would not require further approval from the Commission, but requested that he be allowed to finish the staircase. Ms. Usowski stated that this staircase does not meet the local regulations for stairways over inland banks, and that the landing was about at the 50ft buffer. Mr. Crabtree asked how big the landing was, and Mr. Borden responded that it was about 10’x12’. Ms. Usowski recommended that the Commission require that Mr. Borden file for an Amended Order of Conditions with mitigation. Mr. Chase stated that he would like work to cease until a vote could be taken. Mr. Borden asked if removal of the boathouse could be a form of mitigation, and Ms. Usowski stated that that could be a form of mitigation with the Amendment, but work should not continue until an Amendment was issued.

**Water management in the Bells Neck Bogs**

Ms. Usowski stated that a few people from Mosquito Control were present, including Gabrielle Sakolsky and Paul Eldredge. Ms. Usowski explained that the Bells Neck Bogs had been out of production for a few years, and that the Commission had decided not to re-lease the bogs. Gabrielle Sakolsky explained that a concerned neighbor had called them about the bogs, and that surveys had revealed a very large number of mosquitos in the standing water on top of the bogs, so they had treated the bogs with BTI, which is a bacteria that targets mosquito larvae. Mosquito Control requested that the water be kept at a lower level in the summer, as water in the ditches would be fine but water on top of the bogs was not conducive to keeping mosquito populations down. Ms. Usowski stated that she had reached out to the MA Dept. of Ecological Restoration and a few other organizations for their input on how the water in the bogs could be managed to ensure that flow through the ditches would continue without the fish way being impacted.

**Orders of Conditions**

**John & Ileana Chandler, 115 Sequattom Rd, Map 102 Parcel N5-2.** Dock.

Ms. O’Leary moved to approve the Order of Conditions. Seconded by Mr. Pastuszak. Motion carried, 5-0.

**Requests for Certificates of Compliance**

**Kevin & Marilyn Joyce, 22 Harwich Pines, Map 103 Parcel S1A-14.** Dock.

Ms. O’Leary moved to approve the Certificate of Compliance. Seconded by Mr. Pastuszak. Motion carried, 5-0.

**Douglas Biggar, 41 Great Woods Rd, Map 104 Parcel D2-2.** Dock.

Ms. O’Leary moved to approve the Certificate of Compliance. Seconded by Mr. Pastuszak. Motion carried, 5-0.

**Patrick & Carmel McDermott, 4 Salt River Ln, Map 4 Parcel A1-B2.** Dwelling (32-326), dock (32-523), dwelling (32-757), dwelling (32-896).

Marion Hobbs, representative, presented the requests. Ms. Usowski stated that there was a change to the deck when the house was originally built in 1992, which would have been approved at that time, and that the dock did not meet current standards, but if any changes were made to the dock it would need to meet new requirements. Ms. Usowski recommended approval for all four Certificates.

Mr. Chase moved to approve the requests for Certificates of Compliance for SE32-326, SE32-523, SE32-757, and SE32-896. Seconded by Mr. Donovan. Motion carried, 5-0.

**Adjournment**

**Motion to adjourn by Mr. Chase and seconded by Mr. Donovan, at 10:32PM. Motion approved unanimously.**

Respectfully submitted,   
Melyssa Millett

Approved: 12/21/2022