



TOWN OF

HARWICH



732 Main Street  
Harwich, MA 02645

CONSERVATION COMMISSION

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

HARWICH CONSERVATION COMMISSION

WEDNESDAY NOVEMBER 2, 2016

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

MINUTES

**PRESENT:** Walter Diggs; Ernie Crabtree; Carolyn O'Leary; John Rossetti; Rob Mador, and Conservation Administrator, Amy Usowski.

**ABSENT:** Brad Chase

**CALL TO ORDER**

6:30 PM by Chairman, Walter Diggs

**HEARINGS**

**REQUEST FOR DETERMINATION OF APPLICABILITY**

**6:30 Shoreline Pools for Beth Ann Legare, 15 Mirasol Lane, Map 5, Parcel K1-67 - In-ground pool and mechanicals with pool decking, patio and fencing.**

Presenter: Robin Wilcox, Sweetser Engineering

Mr. Wilcox discussed the project, explaining that the property is in a flood zone and not a wetland. He further stated the following regarding the project:

- Swimming pool dimensions are 18' x 36'
- Kidney shaped pool
- Pool patio pervious (cobblestones throughout)
- Area is 3' above ground water level

Discussion: Amy Usowski inquired regarding the house elevation and the proposed contour around the pool and the fill to be used. Mr. Wilcox said that fill will be brought in and will be sloped off. Ms. Usowski said that the Commission needs to know how much fill will be needed; what the current elevation is, and the resulting end elevations and contours. Mr. Wilcox answered that 265 yards of fill will be needed and that he has the septic plan with the elevation statistics. Ms. Usowski stated that the HCC needs an elevation plan. The Commissioners all agreed.

Chairman Diggs inquired as to how the pool would be emptied. Mr. Wilcox said it will never be emptied. It will be covered in the winter. He also said that there will be a back wash pit.

Carolyn O'Leary inquired as to the closeness of the pool to the deck.

**Motion made by Carolyn O'Leary to continue 15 Mirasol Lane to November 16, 2016. Seconded by John Rossetti. Vote: 5-0-0.**

### NOTICE OF INTENT

**6:45 Rupert Nichols Family Limited Partnership, 335 Lower County Road, Map 12, Parcels Y1-56, Y2-1 & Y1-57-B** - Pump existing cesspools and fill with clean soil. Install new tight tanks to service the sanitary sewage flow of the existing buildings. No changes to the buildings are proposed (Continued from 10-5-16).

Presenter: Rick Judd, Moran Engineering

Mr. Judd explained that the project is for the Allen Harbor Marina septic system. He discussed the plan for pumping the cesspools, leaching plans, and the installation of the tight tanks and their location and elevation.

**Motion made by Ernie Crabtree to approve the septic project for 335 Lower County Road. Seconded by Rob Mador. Vote: 5-0-0.**

**6:55 Gwynne Daks, 18 Harbor Way, Map 1, Parcel C2-7** - Proposed upgrade from existing cesspool to a Title 5 sewage disposal system within the 100' buffer zone to a coastal bank and 200' buffer zone to riverfront area (continued from 10-19-2016).

Presenter: John O'Reilly and Robert Reedy - J. M. O'Reilly & Associates, Inc.

Mr. O'Reilly explained the location of the current cesspools and the flood plan. He said that the septic is 130' from the Herring River. He also stated that he is working with the abutter to the north of the property regarding his concerns relative to the leaching fields. He identified the limit of work and also said that they plan to save an oak tree in the area, but that if the tree is damaged that they will replace it.

Amy Usowski asked why alternatives are not more feasible and if the property is seasonally used now or in the future. She said that she and the Health Department recognize the concerns of the neighbor to the north.

Mr. O'Reilly said that the Harwich Board Of Health (HBOH) does not like tight tanks in seasonally used homes. He discussed the distance from the river and the Mean High Water (MHW) levels. He said he has done test holes holding at 8.5' and does not see the need for tight tanks and because it is a seasonal use dwelling.

Ms. Usowski discussed the proximity to the neighboring shellfish lab.

Ernie Crabtree said that this is the most sensitive area considered since he has been on the Commission. He asked if the owners would agree to only seasonal use (they live in Scarsdale, NY). He said he is

concerned with the time the owners spend in the house and whether or not they plan to use the property as their retirement home.

Mr. O'Reilly said he does not have any definitive answers. He believes the Daks have reached out to the abutting neighbor through an attorney.

Mr. Manhurst (a member of the audience) said he does septic systems and that he does not have problems with the project.

Ernie Crabtree addressed the fact that nitrogen and phosphorus elements reach the river and specifically the aqua culture shellfish hatchery facility.

Mr. O'Reilly said that he and the HBOH see the project as an improvement over what is there now.

Mr. Crabtree said he is concerned with the impact of the new system to the shellfish hatchery and he wants to know if an impact study can be made.

Discussion regarding:

- Advantages of Title 5
- Adverse Impact Study relative to Conservation or Board of Health
- Jurisdiction and By Laws

Mr. Crabtree feels there is a need for more information from the Department of Marine Fisheries regarding an Impact Study. He feels there could be a system better than a Title 5 for this location.

Carolyn O'Leary said that Title 5 assumes full time use. Mr. O'Reilly explained use seasonally as opposed to full time and its impact as the BOH views it.

Mr. O'Reilly discussed the Aqua Facility as drawing water from the ocean (River) and not from groundwater.

Discussion regarding problems in determining nitrogen source (Condominium abutter as well as other abutters) and being able to isolate the Daks' property individually as implicated.

Discussion regarding; monitoring; alternatives; jurisdiction, and improvement of what is there currently.

Amy Usowski said she recommends approval of the project.

**Motion made by Ernie Crabtree to continue the septic project for 18 Harbor Way for more information and to investigate whether a deed restriction to seasonal use is feasible. Seconded by Rob Mador. Vote: 1-3-1. Motion Denied.**

**Motion made by Rob Mador to approve the Septic 5 upgrade for 18 Harbor Way. Seconded by Carolyn O'Leary. Vote: 4-1-0. Motion Approved.**

**7:39 Michael Weinberg, 18 Sound View Road, Map 25, Parcel L1-6 – Construct pool with retaining wall, pool decking, fencing drainage, landscaping, mitigation and appurtenances (Continued from 10-19-2016).**

Presenter: Robin Wilcox - Sweetser Engineering

Discussion regarding: Placement of pool and walls (eliminate walls); Elevation 12.3'; Dry well in driveway, plus second drywell; proposed hardscape decrease (patio blocks not concrete; size and placement of dry well tanks, and mitigation plantings.

**Motion made by Ernie Crabtree to continue 18 Sound View Road to November 16, 2016. Seconded by Rob Mador. Vote: 5-0-0.**

### **REQUEST FOR AMENDED ORDER OF CONDITIONS**

**7:50 19 Nons Road Realty Trust/Christine Freeman, 19 Nons Road, Map 6, Parcel C1-12 (SE 32-2264)**

Presenter: Mark Burgess, Shorefront Consulting

Discussion of removal of two scrub oak trees and three pine trees as well as trimming bayberry to manage growth and let nature takes its course for a time.

Amy Usowski discussed the current conditions of the oaks and pitch pines and agrees they should be removed as well as trimming/training the bayberry. She recommends changes to the following: plant sweet fern, Carolina Rose, bayberry, bear berry, heath, heather and golden rod. Remove swamp azalea. She recommends conditioning cutting of bayberry and letting grow to train it. She and Mr. Burgess discussed placement of plantings to be worked out and conditioned including the removal of bittersweet (manually by cut and wipe method). Also to be conditioned are drip irrigation (above ground) and monitoring reports.

**Motion made by Rob Mador to approve the Amended Order of Conditions with two bi annual site visits and temporary (above ground irrigation) for two years. Seconded by Carolyn O'Leary. Vote 5-0-0.**

### **SHOW CAUSE HEARING**

**8:07 Jeffrey Eldredge, 9 Cranberry Trail**

Amy Usowski recommends HCC review new information and seek advice of counsel.

**Motion made by Ernie Crabtree to continue 9 Cranberry Trail to November 16, 2016. Seconded by Rob Mador. Vote: 5-0-0.**

### **CHANGE IN PLAN**

**8:14 Paul Tinsley, 0 Snow Inn Road, Map 8, Parcel N-5A (SE 32-2168)  
New Name: NSL Family Irrevocable Trust, 0 Snow Inn Road**

Amy Usowski noted the following changes: the shape of the pool has changed to a more rectangular shape; a walk down entrance to replace a bulkhead, and site plan dated October 13, 2016 (5<sup>th</sup> Revision) - Plan of Record. She recommends approval of the Change of Plan with clarification of pool drainage.

**Motion made by Ernie Crabtree to approve the Change of Plan for 0 Snow Inn Road with the clarification of drainage of the pool. Seconded by Carolyn O'Leary. Vote: 5-0-0.**

**CERTIFICATE OF COMPLIANCE**

**8:10 John R. Parsons Jr., 1 Sea Street, Map 7 Parcel D18 (SE 32-2168) - Beach Maintenance**  
To record deed/property to be sold.

**Motion made by Ernie Crabtree to approve the Certificate of Compliance for 1 Sea Street. Seconded by Carolyn O'Leary. Vote: 5-0-0.**

**John R. Parsons Jr., 1 Sea Street, Map 7 Parcel D18 (SE 32-1983) - Snow Fencing**  
To record deed/property to be sold.

**Motion made by Ernie Crabtree to approve the Certificate of Compliance for 1 Sea Street. Seconded by Carolyn O'Leary. Vote: 5-0-0.**

**7:05 MINUTES**

**Minutes of April 15, 2015. Motion made to approve the Minutes of April 15, 2015 for the record by Walter Diggs. Seconded by John Rossetti. Vote: 5-0-0.**

**Minutes of November 18, 2015. Motion made to approve the Minutes of November 18, 2015 for the record by Walter Diggs. Seconded by Carolyn O'Leary. Vote: 5-0-0.**

**Minutes of October 5, 2016 - Motion made by Carolyn O'Leary to approve the Minutes of October 5, 2016. Seconded by Ernie Crabtree. Vote 5-0-0.**

**Minutes of October 19, 2016 - Motion made by Ernie Crabtree to approve the Minutes of October 19, 2016 with edit on page 3 (Vote to approve July 20, 2016 Minutes should be 5-0-0 not 6-0-0). Seconded by Rob Mador. Vote: 5-0-0.**

**DISCUSSION**

- 1. Bells Neck Bog Scope of Services - Stalled on hiring due to meeting with DEP. DEP can get some services at no cost.**
- 2. Update on Chatham Road - Made deadline as of yesterday (November 1, 2016) to provide information. Amy Usowski to review. Attorney wants Show Cause Hearing. Discussion of Notice of Intent (after the fact) to expedite. Continue to November 16, 2016.**
- 3. Conservation Commission Wetland Regulations - None**

**ADJOURN**

**Motion to Adjourn to Executive Session not to return to Regular Session 8:34 PM by Roll Call Vote: Walter Diggs; Rob Mador; Carolyn O'Leary; Ernie Crabtree, and John Rossetti. All in Favor.**

Minutes transcribed by Board Secretary, Marie Hickey

*WW Diggs*  
*11-16-16*

**SIGN IN SHEET  
Donn B. Griffin Room  
November 2, 2016**

<b>Robin Wilcox</b>	<b>Sweetser Engineering</b>
<b>John O'Reilly</b>	
<b>Joe Johnson</b>	<b>WWC</b>
<b>Chris Dietrich</b>	<b>SLP</b>
<b>Rick Judd</b>	<b>MEA</b>
<b>Mark Burgess</b>	<b>Shorefront Consulting</b>
<b>Jeff Eldredge</b>	