



TOWN OF

HARWICH

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Harwich, MA 02645

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CONSERVATION COMMISSION



HARWICH CONSERVATION COMMISSION

WEDNESDAY DECEMBER 21, 2016

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

MINUTES

PRESENT: Brad Chase; Ernie Crabtree; Carolyn O'Leary; Rob Mador, and Conservation Administrator, Amy Usowski

ABSENT: Walter Diggs and John Rossetti

CALL TO ORDER

6:30 PM by Vice Chairman, Brad Chase

HEARINGS

REQUEST FOR DETERMINATION OF APPLICABILITY

6:30 James and Molly Nichol, 316 Lower County Road, Map 12, Parcels W4-1B & W4-1A - Proposed demolition of existing 20' x 20' garage and construction of new 24' x 24' garage

Presenter: Daniel Croteau - Moran Engineering Assoc., LLC

Mr. Croteau explained the plan and design plan provided by the architect. The new garage has to have flood vents. There is a small addition to the laundry room.

Amy Usowski said that it is a slab foundation; simple garage; existing septic; small addition to laundry room in land subject to coastal flooding. She recommends approval with a Negative Determination #2.

Rob Mador addressed dry wells for roof runoff.

Motion made by Ernie Crabtree to approve the plan for 316 Lower County Road with a Negative Determination #2 with the condition of roof runoff to dry wells. Seconded by Rob Mador. Vote: 4-0.

ORDER OF CONDITIONS

6:59 Michael Weinberg, 18 Sound View Road, Map 25, Parcel L1-6 – Construct pool retaining wall, pool decking, fencing, landscaping, mitigation and appurtenances (Continued from 11-16-2016).

Motion made by Carolyn O’Leary to approve the Order of Conditions for 18 Sound View Road. Seconded by Ernie Crabtree. Vote: 4-0-0.

7:01 Harbor Road LLC, 13 Harbor Road, Map 8, Parcel S31 – Proposed landscaping improvements and invasive species removal.

Motion made by Carolyn O’Leary to approve the Order of Conditions for 13 Harbor Road. Seconded by Ernie Crabtree. Vote: 4-0-0.

CHANGE OF PLANS

6:39 Herrema, 148 Long Pond Drive (SE 32-2190)

Presenter: Theresa Sprague – Blue Flax Design

Ms. Sprague explained the plan for temporary irrigation with no fertilizer to be used. She asked if “As Built” from engineer is needed.

Amy Usowki asked Ms. Sprague to do an “As Built” for the whole property.

Brad Chase said he is more concerned regarding fertilizer use than for temporary irrigation. Ms. Sprague said soil testing should be done before organic (or otherwise) fertilizer is used.

Ernie Crabtree said the question is relative to temporary/permanent irrigation and possible one time organic fertilizer to get plantings/lawn established.

Amy Usowski read Regulations regarding fertilizer specification. Regulations state 2 x year slow release organic in specified areas. Discussion regarding 1 x year fertilizer plan. Fescue requires low maintenance and irrigation. Rob Mador discussed specific locations may need 2 x year fertilizer.

Motion made by Ernie Crabtree to approve including permanent irrigation and fertilizer 3 x year according to Town By Laws with Order of Conditions to specify limits. Seconded by Carolyn O’Leary. Vote: 4-0-0.

6:57 Wychere Harbor Real Estate, 23 Snow Inn Road (SE 32-2216)

6:57 Amy Usowski explained changes proposed. The pavilion be allowed to move 8’ landward to tie into the existing covered stairway and the roof dimensions over the pavilion be allowed to increase from the approved 46’ x 26’ to 48’ x 29’. All existing conditions including that all roof runoff be directed into a drywell. She recommends approval.

Motion made by Carolyn O’Leary to approve the Change of Plan for 23 Snow Inn Road. Seconded by Ernie Crabtree. Vote: 4-0-0.

SHOW CAUSE HEARING

7:06 Resilient Family Farms/Barry Viprino, 35 Chatham Road, 35 Chatham Road (Continued from 11-16-2016)

Presenters: Atty. Ben Zhender and Barry Viprino

Amy Usowski stated that the wetland and buffer is what HCC has jurisdiction over.

Discussion Regarding:

- Area of some trees and animal areas.
- NOI to be filed.
- Agricultural exemption/agricultural use
- Question of filing Request for Determination of Applicability (RDA).
- Mr. Zhender recommended the following order for filings: RDA - Jurisdiction; NOI - for turkey pen; NOI for construction of hoop house.
- Ms. Usowski explained advice of Town Counsel and agrees with the above order of filings.
- Ms. Usowski addressed the e-mails and correspondence from advocates and opposition (given to HCC in their packets). She recommended a time line to keep things moving. She recommended 30 day filing time. Discussion of filing time. Mr. Zhender requested 45 days.
- Discussion of mitigation plans and Natural Heritage approval.
- Ernie Crabtree said that the HCC preference is that a RDA is filed first (file within 30 days).

Audience Comments:

- Tony Ciucci an abutter (wrote one of the letters) basically reiterated his concerns stated in his letter. He has been there for 21 years. Wants to know if HCC will be asking for farm plan. He claims the property was never used for commercial purposes prior to Mr. Viprino's acquisition. He referred to item #7 in his letter stating he does not want to hear "dairy herds" in his back yard.
- Speaker from 64 Lovers Lane said that she hears turkeys all morning long; cows make noise; she saw what looked like a plucked chicken in the road. She is upset regarding the above in a residential neighborhood.
- Resident of Chatham Road said that the farm is inappropriate for the area and addressed issues of nitrogen load.
- Abutter, Pamela Rodrigues spoke of destroyed area: huge domes; dead turkeys; and a danger to her dogs. She said she is concerned with health issues of feces from cows and turkeys. She feels the Town dropped the ball regarding permitting. She said she also feels what is going on there is not what is appropriate for a residential neighborhood.

Amy Usowski said she did not initially know what was going on at the property as it is not visible from the street. She became aware in August when a complaint was made and she issued a Stop Order. Ms. Usowski discussed the fact that other Town Boards are involved: Health Department, Planning, etc. She said that the HCC is responsible for certain areas of limited jurisdiction.

Mr. Zhender defended his client's failure in applying for permits as he claims his client was told they were not needed. He feels neighbors are "over re-acting" and he accused the neighbors of "harassment".

Discussion of defunct Agricultural Committee. Selectmen disbanded the Committee due to lack of interest. Mr. Zhender addressed re-appointing the Committee at this time due to apparent bias in this case.

Ms. Usowski recommend a Status Hearing on the second HCC Hearing in January (January 18, 2017) and a RDA be filed 30 days after that.

Motion made by Ernie Crabtree to continue the Show Cause Hearing for 35 Chatham Road to January 18, 2017. Seconded by Rob Mador. Vote: 4-0-0.

SHOW CAUSE HEARING

7:50 Jeffrey Eldredge, 9 Cranberry Trail

Amy Usowski explained conversations with Attorneys on both sides. They recommend filing an RDA within 30 days for agricultural determination use. She said the applicant is willing to do so. She will follow up with a letter if HC agrees.

Discussion of HCC making a site visit with her to get past "Show Cause" status.

No vote taken this evening.

CERTIFICATES OF COMPLIANCE

8:10 Rupert L. Nichols Family Tr. LP Allen Harbor Marine Services (SE 32-1920) (Dredging)

Motion made by Ernie Crabtree to approve the Certificate of Compliance for Rupert L. Nichols Family Tr. LP Allen Harbor Marine Services (SE 32-1920). Seconded by Rob Mador. Vote 4-0-0.

8:10 Rupert L. Nichols Family Tr. LP Allen Harbor Marine Services (SE 32-1686) (Bulkhead)

Motion made by Ernie Crabtree to approve the Certificate of Compliance for Rupert L. Nichols Family Tr. LP Allen Harbor Marine Services (SE 32-116860). Seconded by Rob Mador. Vote 4-0-0.

MINUTES - Work in progress.

DISCUSSION

8:00 Discussion-Haunted Forest at 322 Route 28 - Skip Fennell

Mr. Fennell owner of Bumper Boats business at 322 Route 28 explained that he would like to use a small buffer zone to the wetlands for a Halloween haunted forest area. Amy Usowski explained specifics of the area (mow area for walking).

Discussion of delineating the area. Mr. Fennell said he would stake and rope the area (no platforms; use battery lights). He would clean up the area. He described it as "A Walk in the Woods", small area, hire local actors dressed as googles.

Ms. Usowski said there would be some disturbance in the area. The applicant would do the work 14 days before Halloween. She said there are some invasives and that previously there was a homeless encampment in the area. She feels that removing some invasives is an advantage.

Discussion of RDA or Administrative. Ms. Usowski recommends an RDA. Applicant is willing to do what HCC conditions. HCC recommended filing a RDA.

DISCUSSION

8:18 Discussion and Vote - Memorial Bench for Jordan Fisher

Motion made by Brad Chase to accept the Memorial Bench for Bells Neck. Seconded by Ernie Crabtree. Vote: 4-0-0.

DISCUSSION

8:20 Update on result of meeting with Mass. DER at the Belis Neck Bog

Amy Usowski said she had a discussion with Heinz Proft and that test holes were dug. Peat within 18" of surface. If dug up it would revert to wetland. Other areas showed 6" of peat. The next step now is to send soil samples out to the county for contamination.

Brad Chase discussed that all options be considered. He said he would like professional advice.

Discussion of flooding the bog over the next few months; herring are gone for now (a net would keep the herring out). Brad Chase would like advice from a cranberry grower. Mr. Chase said he feels it would be nice for the public to harvest cranberries. Amy Usowski said she will discuss flooding the bog with Alan Hail to protect the vines.

DISCUSSION

8:45 Discussion on Harwich Wetland Protection Bylaw and Regulations

Brad Chase said that West Tisbury has new Regulations. Amy Usowski to follow up.

ADJORN

Motion made by Ernie Crabtree to adjourn at 8:50 PM. Seconded Rob Mador. All in favor.

Minutes transcribed by Board Secretary, Marie Hickey

SIGN IN SHEET
Small Hearing Room /Donn B. Griffin Room
December 21, 2016

Bill Galvin
Dan Croteau
Theresa Sprague, Blue Flax Design
Audrey Greenway
Pamela Rodrigues
Antony Rodrigues
Tony Ciucci
Barry Viprino
Ben Zhender
Beverly Bangs

WW Diga
2-15-2017