



TOWN OF

HARWICH



732 Main Street  
Harwich, MA 02645

CONSERVATION COMMISSION

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**HARWICH CONSERVATION COMMISSION**

WEDNESDAY FEBRUARY 1, 2017

DONN B. GRIFFIN ROOM  
HARWICH TOWN HALL

6:30 PM

**MINUTES**

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

**ABSENT:** Walter Diggs and Brad Chase.

**CALL TO ORDER**

6:30 PM by Acting Chairman: John Rossetti.

**HEARINGS**

**REQUEST FOR DETERMINATION OF APPLICABILITY**

6:30 **Brendan O'Brien c/o Gavin Meeks O'Brien, 0 Doane Road, Map 21, Parcel W5-3** - No work proposed. Boundary delineation determination only.

Motion made by Ernie Crabtree to continue 0 Doane Road to February 15, 2017. Seconded by Rob Mador. Vote: 4-0-0.

**NOTICES OF INTENT**

6:31 **Massachusetts Department of Transportation, 0 Mid Cape Highway, Map 70, Parcel C10** - Mass. DOT proposes storm water retrofits, upgrades and installation of new BMP's to improve infiltration, reduce runoff volumes and erosion and improve water quality of runoff being discharged into Pleasant Bay, Rock Harbor and Cedar Pond (Cape Cod Bay Watershed).

Presenters: Amy Ball, Senior Ecologist, Rich Claytor, Engineer, and Brian Cordaro, from Horsley Witten Group, Inc.

The presenters explained the project which involves resurfacing of Route 6; installation of storm water basins and best practices. The project begins at the Harwich town line east of Dennis through Harwich, Orleans and Brewster for a twelve mile stretch.

Amy Usowski stated that the state requires the design for the storm water retrofits and upgrades. Natural Heritage has signed off on the project as has the Division of Marine Fisheries (although it is not an issue in this instance). Harwich Town Engineer will review the design to protect the Herring River in Harwich.

Ms. Usowski addressed the issue of replacement of filter tubes. She also said that HCC is well versed in removal of invasives and approves of the "cut and wipe" method for invasive removal proposed by Mass. DOT. She asked for clarification of plugs and seeding. Mr. Claytor said that the bottom swales would be covered with a seed mix more conducive to wetland. The seed mix is intended to be low maintenance.

Rob Mador asked what the new storm drains are replacing. Mr. Claytor said that they replace outfalls and in some cases rip rap. Discussion regarding monitoring data and control practices. Mr. Claytor said that the latest scientific designs are being used. Discussion of dewatering filter during construction.

Carolyn O'Leary asked for a clarification of permanent compost filter. Answer: Permanent compost filter is above ground and is inspected once a year (industry standard) with a life expectancy of 5 years, but may go as long as 20 years.

Ms. Usowski stated that HCC can condition maintenance of the project.

Planning and approval process to be completed by approximately September, 2017 with construction starting in the spring of 2018. Discussion of peak season work (summer).

**Motion made by Ernie Crabtree to approve the Mass. DOT project as proposed pending Orders of Condition. Seconded by Carolyn Crabtree. Vote: 4-0-0.**

**7:15 Eric and Reva Fishman, 39 Strandway, Map 1, Parcel J1-31A - Renovations to existing pool and adjacent landscape.**

Presenter: Michael Picard, Sudbury Design Group

Mr. Picard explained the re-design of the pool and patio. Applicants are proposing 2:1 mitigation.

Amy Usowski said that a response from DEP has been received and that a vote on the proposal may be voted on this evening. Discussion of patio (no new structure in the 50' to 100' buffer). Mitigation at the top of the project area is recommended. Ms. Usowski said she recommends approval of the project.

Rob Mador addressed issue of pool pumping. Answer: Harwich Regulations require off site emptying and that would be in the Order of Conditions.

Carolyn O'Leary addressed south side entry way. Answer: Stepping stones are planned. On the north side it will be hard set for which there is mitigation. Also, Ms. O'Leary addressed issue of drains. Answer: Drains into planting bed (no need for dry well).

Amy Usowski said that invasives were not an issue and that the bank is stable.

**Motion made by Carolyn O'Leary to approve the project for 39 Strandway. Seconded by Ernie Crabtree. Vote: 4-0-0.**

7:29 Conrad J. Bletzer Jr., 19 Ships Haven Road, Map 12, Parcel Y3-9 – New bluestone patio off of the back porch.

Motion made by Ernie Crabtree to continue 19 Ships Haven Road to February 15, 2017. Seconded by Rob Mador. Vote: 3-0-1.

**AMENDED ORDER OF CONDITIONS**

7:30 WJAA,LLC/James and Alina Apteker, 23 Snow Inn Road, Unit 11, Map 8, Parcel P2-11 (SE 32-2116)

Presenter: Stephanie Sequin, Ryder & Wilcox

Ms. Sequin explained the re-planting mitigation plan. The plan calls for 452 sf brick patio replaced with 696 sf stone patio with 630 sf of planting mitigation. Astro turf between the buildings to be removed.

Amy Usowski said that the new area of planting is more in line with conservation recommendations on a coastal bank. She has spoken with the landscaper regarding choice of plants and recommended other species more adaptive to a coastal area. With the planting changes and no irrigation she recommends approval of the project. She noted also that the plan would include “cut and wipe” method for the bitter sweet removal.

Ernie Crabtree asked for clarification of the common area and the “exclusive” use area. Ms. Sequin said the three out of four WJAA Trustee Board (Condo Assoc.) approved the plan in writing.

Mr. Crabtree discussed legal issues regarding Condo Trust common area use and the issue of the applicant requiring a higher governing body to make application. Discussion of prior Order of Conditions. Amy Usowski said that the Condo Assoc. was a co-applicant. Wychmere Condominium Trust in prior Order of Conditions.

Ms. Sequin asked for a clarification of what the HCC was asking of her. Mr. Crabtree explained that the Order of Conditions be issued to Applicants and Trustees as it is the consensus of the HCC that they are “Co-Applicants”. Ms. Sequin stated that Atty. Andrew Singer signed the documents provided. Amy Usowski asked Ms. Sequin to get written clarification of the documents from Atty. Singer.

Discussion regarding “Exclusive Use” of Unit 11.

Motion made by Ernie Crabtree to approve the Amended Order of Conditions for WJAA,LLC/James and Alina Apteker, 23 Snow Inn Road contingent upon Original Order of Conditions indicating the same applicants. Seconded by Rob Mador. Vote 4-0-0.

**CERTIFICATES OF COMPLIANCE**

8:08 Donna Claire Pihl, 2 Bayberry Road, Map 24, Parcel K1-10 (SE 32-2116)

Motion made by Carolyn O’Leary to approve the Certificate of Compliance for 2 Bayberry Road. Seconded by Rob Mador. Vote: 4-0-0.

8:10 Howard Winer, 38 Sisson Road, Map 21, Parcel D2-9 (SE 32-1791)

**Motion made by Carolyn O'Leary to approve the Certificate of Compliance for 38 Sisson Road. Seconded by Rob Mador. Vote: 4-0-0.**

**Minutes of December 21, 2016 - Vote postponed.**

**Minutes of January 18, Executive Session - Vote postponed to next Executive Session.**

**Minutes of January 18, 2017 - Motion made by Ernie Crabtree to approve the Minutes of January 18, 2017. Seconded by Carolyn O'Leary. Vote: 4-0-0.**

**DISCUSSIONS:**

**A. Management of Town owned bogs at Bells Neck Conservation area.**

No new information at this time.

**B. Wetland Regulation Discussion**

No new information.

**C. 22 Walker Woods Violation**

Amy Usowski explained her observation of violations at 22 Walker Woods while she was doing a site visit for another property on the same street. Violations include clearing of vegetation in the 0-100' buffer without approval, a chicken coop and a fenced-in area within the 50-100' buffer. HCC authorized her to handle the situation administratively. She said she spoke with the owners and sent a letter to the owners on January 31, 2017 to immediately cease and desist from any further activity in the wetland and/or buffer and imposed fines for the violation. She also stated in the letter that an application for an After-the-Fact Notice of Intent with the Conservation Commission for work done without a permit must be filed by March 1, 2017.

**D. Fish House at 11 Harbor Way - Emergency Situation**

On Friday January 27, 2017 at the request of the owner, Mr. Zarette, the Fish House at 11 Harbor Way, Harbormaster John Rendon, and Conservation Agent Amy Usowski conducted a site visit of the property. They found that there was obvious deterioration in the physical stability of the Fish House (a water-dependent structure on the Herring River). They found the building to be in an extremely unsafe condition. Several of the support beams were cracked, many of the support piles were leaning to the east, the loading platform (deck) was warped and caving in, the southwest corner of the building was sagging and the entire structure had clearly shifted to the east. Mr. Zarette has hired MVA Engineering to inspect the building and develop a plan to support the structure until final disposition on his reconstruction plan is received. Harbormaster Rendon stated that in its current state the building poses a real risk to the navigability of the Herring River should it collapse, and is a serious safety risk to members of the public who may be in the vicinity of the unstable structure.

Amy Usowski requested emergency certification under the Wetlands Protection Act to permit the repairs being proposed by Mr. Zarette. The Town Administrator and the Harbormaster all agreed with Ms. Usowski. Town Counsel is aware of the Emergency Order.

John Rossetti asked who pays for the work. Answer: Mr. Zarette the owner who brought the situation to Ms. Usowski's attention.

Ms. Usowski stated that the property is under litigation and cannot be demolished while under litigation. She explained the legal process.

**Motion made by Rob Mador to approve the Emergency solution of installing steel beams and new piling to stabilize the structure at 11 Harbor Way. Seconded by Ernie Crabtree. Vote: 4-0-0.**

**ADJOURN**

**Motion made by Rob Mador to adjourn at 8:45 PM. Seconded by Carolyn O'Leary. Vote: 4-0-0**

Minutes respectfully taken and transcribed by Marie Hickey, Board Secretary

**SIGN IN SHEET  
Donn B. Griffin Room  
February 1, 2017**

Amy Ball, Horsley Witten Group, Inc.  
Rich Claytor, Horsley Witten Group, Inc.  
Michael Picard, Sudbury Design Group  
Dick Smith, Abutter  
Stephanie Sequin, Ryder & Wilcox

*CW Design  
3-1-17*

