



TOWN OF

HARWICH

732 Main Street  
Harwich, MA 02645

CONSERVATION COMMISSION

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

HARWICH CONSERVATION COMMISSION

WEDNESDAY APRIL 5, 2017

DONN B. GRIFFIN ROOM  
HARWICH TOWN HALL

6:30 PM

MINUTES

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

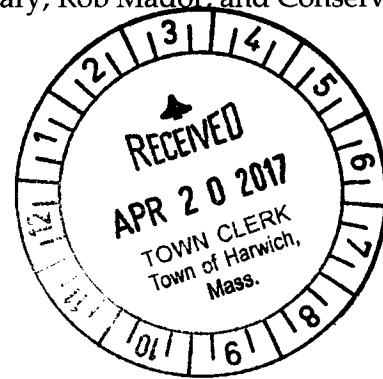
**ABSENT:** Ernie Crabtree

CALL TO ORDER

6:30 PM by Chairman Walter Diggs

HEARINGS

REQUEST FOR DETERMINATION OF APPLICABILITY



**6:30 Habitat for Humanity, 93 & 97 Route 28, Map 10 Parcels W5 & W3-B** - Proposed work within Land Subject to Coastal Storm Flowage: includes removing a portion of the multi-family dwelling on #93 and constructing an addition to the rear; small portion of road construction and septic system upgrades for both.

**Motion made by Carolyn O'Leary to continue 93 & 97 Route 28 to April 19, 2017. Seconded by Brad Chase. Vote: 5-0-0.**

**6:34 Erika Goyzueta, 90 Route 28, Map 10 Parcel K6-1** - Construct 20' x 40' in-ground Vinyl liner swimming pool. Pool will be 821 sq. ft. & pool decking area will be 1107 sq. ft; Proposing to remove two trees in preparation for the new pool.

Presenter: Chris Dietrich - Shoreline Pools

Mr. Dietrich said that they moved the location of the pool.

Amy Usowski said that she recommended approval with a Negative Determination #3.

**Motion made by Brad Chase to approve the project for 90 Route 28 with a Negative Determination #3. Seconded by Rob Mador. Vote: 5-0-0.**

**6:35 Small (Applicant) for Allen Harbor Marine Service, 335 Lower County Road, Map 12, Parcel Y1-56 - Growing oyster seed from 1mm to 12-15mm in size in a trailer based upweller unit.**

Presenters: Brandon Small and Craig LeBlanc, Allen Harbor Marina

Mr. Small explained his project. He would like to use an 8.5' x 20' trailer to house a mobile upweller unit for the growth of oysters. The trailer would be temporarily located in an area currently being used for boat storage. He said the seeds will be resold to shellfish farmers (they are not large enough for consumption).

Ms. Usowski said that this area is in the 50' buffer zone to the marsh. Intake lines (hoses or PVC piping) would be needed to pump water in from Allen's Harbor to feed the oysters, and then the water would go back out into the harbor. Mr. Small has permission from the owners of Allen Harbor Marine Services. This property is in a residential zone according to Planning, but aquaculture is exempt from zoning regulations, so he does not have to go before the Zoning Board of Appeals for special use. She also said that as long as Mr. Small keeps his trailer in the gravel portion of the lot where boats are parked, and not in the upper marsh, the HCC can put a seasonality limit to his operation and that she does not see how this would be much different from boat storage in the area. She also stated that to a small extent, the oysters should improve the water quality in Allen Harbor as they remove nitrogen from the water.

Ms. Usowski said that as long as the Harbormaster has no navigation concerns, she recommends approval with a Negative Determination #2 and #3.

A letter from an abutter, Tracy Maloney was read into the record opposing the trailer.

Carolyn O'Leary asked the height of the trailer. Answer: Height is 11'. John Rossetti asked would there be any noise changes to the neighborhood. Mr. Small answered that the pump does not make noise; everything in the trailer is self-contained; no one outside should be impacted. Rob Mador asked what activities there would be outside the trailer. Mr. Small said only the cleaning of the crates (waste from oysters). There are no chemicals; no tools and no products used.

Brad Chase asked since it is a mobile unit are any other permits required. Mr. Small answered only from Division of Marine Fisheries for resale. Mr. Chase asked about the size of the mesh screen in the crates. Rob Mador asked if there is a contingency plan in case of a hurricane. Mr. Small said move the trailer and as much seed as possible. Carolyn O'Leary asked for clarification of the location near the boats. Discussion of location followed.

**Motion made by Brad Chase to approve the project for Brandon Small at Allen Harbor Marine Services, 335 Lower County Road with a Negative Determination #2 and #3. Seconded by Carolyn O'Leary. Vote: 5-0-0.**

## NOTICE OF INTENT

**6:49 Thomas & Lisa Cahill, 2097 Route 28, MP 109 Parcel B1-7 - Remove approximately 2512 sq. ft. of irrigated lawn and landscaping within 50' buffer and plant native vegetation. Add limited outdoor living space on the waterside of the house with 83 sq. ft. of permeable patio and 83 sq. ft. of cantilevered**

deck within 50' buffer. 410 sq. ft. of decking on pin piles is requested within 100' buffer. (Continued from March 1, 2017) (SE 32-2290).

**NOTE: Commissioner, Rob Mador recused himself from the table for the discussion and vote in the above case.**

Presenters: Gordon Peabody, Safe Harbor Environmental Management and Lisa Cahill

Mr. Peabody said that there would be no patio and no hot tub. They would still like to cantilever their existing 2<sup>nd</sup> story deck out 3' so that it can connect to the proposed deck in the 50-100' buffer (the area is currently lawn). They are offering mitigation of 6:1 ratio for the proposed 83 sq. ft. of cantilever deck expansion, and 3:1 for the proposed deck.

Amy Usowski discussed the changes to the original plan; the variance in the 50' buffer and the mitigation proposed. She said that there needs to be a revised planting plan with specifics. She feels that the mitigation outweighs the construction and recommends approval.

Carolyn O'Leary thanked the applicants for the removal of the patio. John Rossetti said he approves of the new plan. Brad Chase discussed the mitigation ratios and asked that a planting plan identifying the plants be provided.

**Motion made by Carolyn O'Leary to approve the plan for 2097 Route 28 as proposed with the stipulation of exact mitigation ratios and a planting plan with specific plants. Also conditioning of irrigation. Seconded by Brad Chase. Vote: 4-0-0.**

**6:09 Richard & Carolyn Steward, 280 Long Pond Drive, Map 103, Parcel B1-7 – Replace existing flagstone walkway and grasses pathway with new granite steps (at grade) and random granite paver pathway down to Long Pond. Minor grading is required for new steps and walkway. Disturbed areas to be replanted and stabilized.**

Presenters: John O'Reilly, J.M. O'Reilly & Assoc. Inc., and Richard Steward

Mr. O'Reilly explained the revised plan to replace the existing flagstone walkway and the relocation (access) pathway to Long Pond.

Amy Usowski said that the granite pavers near the house are a little more formalized; path still pervious; not wider than 4'. She said a NOI is needed because of the location in the 50' buffer. She recommends approval.

**Motion made by Carolyn O'Leary to approve the replacement of the walkway for 280 Long Pond Drive as proposed. Seconded by John Rossetti. Vote: 5-0-0.**

**7:16 Town of Harwich, Along Nantucket Sound, Herring River, Round Cove, Allen, Wychmere & Saquatucket – The Town of Harwich is seeking to combine permits for various dredge and disposal sites within the Town in order to create a comprehensive town wide dredge and disposal permit. Included is the re-permitting of Round Cove maintenance dredging and the addition of a small amount of improvement dredging inside Wychmere Harbor.**

**Motion made by Carolyn O'Leary to Continue request from Town of Harwich, Along Nantucket Sound permits for various dredge and disposal sites to April 19, 2017. Seconded by John Rossetti. Vote: 5-0-0.**

### EXTENSION REQUEST

**7:40 Dave Callaghan/Great Sand Lakes Association, Seven Association Beaches, Map 72, Parcels BA-A; BA-B1, and BA-B2; Map 63, Parcel BA-C and Map 73, Parcels BA-H, BA-K and BA-D ( SE 32-1889).**  
(Continued from 3-15-17)

Amy Usowski explained the details for the extension request. She recommends granting the request for 5 years with conditioning maintenance for 5 years.

Rob Mador discussed the road issue. Amy Usowski to address the road issue.

**Motion made by Carolyn O'Leary to approve the 5 year extension for Great Sand Lakes Association, Seven Association Beaches. Seconded by Rob Mador. Vote: 5-0-0.**

**7:17 David Kelleher, 9 Riverbend, Map 1, Parcel G1-13 (SE 32-570)** (Continued from 3-15-17)

Presenters: Atty. Roger O'Day and David Kelleher

Atty. O'Day stated that the extension request of 2 years was due to time of year to do the work.

Amy Usowski explained that the project was permitted in 2010 to fix a bulkhead at this property on the Herring River. It was set to expire in April 2013, but due to the Massachusetts Permit Extension Act, it was granted an automatic 4 year extension, putting the expiration April 22, 2017. She said that since 2010, it required a Structural Engineering inspection before undertaking the project.

Mr. Kelleher said that he met with Cape Cod Docks and went over everything (there is a time of year work restriction for the project (fall and winter).

Amy Usowski said that due to extenuating circumstances, she recommends a 2 year extension.

Brad Chase asked about the time it takes to do the project. Answer: Two to three months (materials brought from overseas).

Amy Usowski said she would condition orders regarding shellfish.

**Motion made by Brad Chase to approve a two year extension for 9 Riverbend. Seconded by Rob Mador. Vote: 5-0-0.**

### CERTIFICATES OF COMPLIANCE

**Susan Whitney, Lot 25, 8 Ruth Lane, Map 32, Parcel K 4-25 (SE 32-570).** (Continued from 3-15-17)

Presenters: Alex and Susan Whitney

Amy Usowski explained the situation with previous Certificates of Compliance not showing garage and granting of the deck in existing condition at the time. She also addressed the issue of the fence. The fence has been removed and disposed of. Ms. Usowski told the applicants that the Commission would most likely mandate that they plant a 10 to 15' wide swath of plantings between the back of the house and the wetland at minimum and define a "No Disturb Zone". She suggested a few boulders to define it. She recommended closing out the Certificate of Compliance with stipulation of a recommended plant list.

Carolyn O'Leary asked for clarification on work done and not done and the filings for them. Ms. Usowski clarified.

Discussion regarding visual barrier to wetland and plantings. John Rossetti asked when the work would be done. Susan Whitney said they would like to do the planting prior to breaking dormancy. Ms. Usowski said that the Certificate of Compliance will specify "owner" responsibility. Present owners agree work should be done now before sale of property.

Rob Mador said he likes the "Two man boulders" to define the boundary line.

**Motion made by Carolyn O'Leary to approve the Certificate of Compliance for 8 Ruth Lane with the provision of adding 2 "Two man boulders" to delineate the wetland. Seconded by Rob Mador. Vote: 5-0-0.**

## MINUTES

### Minutes of February 15, 2017

**Motion made by Carolyn O'Leary to approve the Minutes of February 15, 2017. Seconded by Brad Chase. Vote 5-0-0.**

### Minutes of March 1, 2017

**Motion made by Carolyn O'Leary to approve the Minutes of March 1, 2017 with edits (Amy Usowski to do the edits). Seconded by Rob Mador. Vote: 5-0-0.**

### Minutes of March 15, 2017

**Motion made by Carolyn O'Leary to approve the Minutes of March 15, 2017. Seconded by Rob Mador. Vote: 5-0-0.**

## DISCUSSIONS

**Harwich Wetland Protection Regulations changes. Discussion postponed.**

### 1. ADJOURN

**Motion made Brad Chase to adjourn to Executive Session not to return to regular session at 8:00 PM. Seconded by John Rossetti. Vote: 5-0-0. Roll Call vote to enter Executive session, Carolyn O'Leary, Walter Diggs, John Rossetti, Rob Mador, and Brad Chase.**

Minutes respectfully transcribed by Marie Hickey, Board Secretary

**SIGN IN SHEET**  
**Small Conference Room**  
**April 5, 2017**

Susan Whitney  
Alexandra Whitney  
Gordon Peabody  
Chris Dietrich  
John O'Rielly  
Audrey Greenway  
Lisa Cahill  
David Keller  
Roger O'Day  
Richard Stewart  
Carol Stewart  
Brandon Small  
Craig LeBlanc  
Lara Henry

*WW Diggs*  
*4-19-2017*