



TOWN OF HARWICH

CONSERVATION COMMISSION
732 Main Street Harwich, MA 02645
508-430-7538 – Fax 508-430-7531

HARWICH CONSERVATION COMMISSION Wednesday, October 21, 2015 Donn B. Griffin Hearing Room Harwich Town Hall

Present: Chairman Walter Diggs, John Rossetti, Robert Sarantis, Bob Hartwell, Brad Chase, Carolyn O'Leary, Conservation Administrator Amy Usowski & Administrative Assistant Jennifer Clarke

Others Present: Dan Ojala, Carol Miller, Robert Stello, David Hawk, David Michniewicz, Stacy Kanaga, Mark Burgess, Al Silverstein, Kelly Sattmor, Derek Webber & Linda Cebula.

6:35-Call to Order by Chairman Walter Diggs

6:35-Request for Determination of Applicability (continuance)

Donovan Building Corporation, Sisson Road & Forest Street, Map 31, Parcels D3 & D4- Confirmation of the edge of the wetland resources and the associated buffer zones as flagged on the property.

No one was present at the meeting on behalf of the applicant. Amy Usowski informed the Commission that a revised plan showing the complete edge of the wetland and buffer zones was submitted. She stated that the abutting bog has been fallow for some time. Amy recommended the approval with a Positive 1 and a Positive 2A determination.

Bob Sarantis MOVED and Bob Hartwell SECONDED approval of the plan with a Positive 1 and a Positive 2A. Vote was 5 in favor, 0 opposed and 1 abstained (O'Leary); Motion carried.

6:45-Request for Determination of Applicability

Kerry Sullivan (for) Lisa Anne & John D. Kenney, 2121 Route 28, Map 105, Parcel K2-Installation of a Title 5 septic system and new water line.

Dan Ojala, Down Cape Engineering, was present at the meeting on behalf of the owner. They are proposing to upgrade the septic system which will be located in the West corner of the lot, the furthest location possible from Round Cove. The existing cesspool will be crushed and filled with clean sand. The soil absorption system will be approximately 64' from the coastal bank and 93' from the wetland. They are not proposing any change in the floor plan to the dwelling. The loss of vegetation will be minimal and re-seeding will be done after installation is complete. Amy recommended approval of the project with a Negative 2 determination.

Bob Sarantis MOVED and Bob Hartwell SECONDED approval of the project with a Negative 2 determination. Vote was 5 in favor, 0 opposed and 1 abstained (O'Leary); Motion carried.

6:55- Notice of Intent

Dark Hollow Realty Trust, 2261 Route 28, Head of the Bay Road-Removal of an existing brick patio, steps, timber retaining walls, foot path, a portion of the landscaping features, and turf lawn. Installation of deck, brick patio, retaining wall, gravel walkway, pea gravel parking/driveway expansion, localized drainage improvements, landscaping and mitigation planting.

David Michniewicz, Coastal Engineering, and David Hawk, Hawk Design, were present on behalf of the owner. Mr. Hawk re-iterated the scope of proposed work for the property. Brad Chase questioned what the proposed walkway will be edged with. The current walkway is slate. Mr. Hawk stated that the walkway would be composed of either shell or pea stone and would be contained with a thin metal edging that would be buried approximately 6". A discussion of the different types of edging took place between the Committee members and applicants, as well as whether or not the edging could be interpreted as a 'structure.'

Localized drainage improvements are proposed to prevent erosion, minimize sedimentation, and reduce localized ponding. There will be gutters installed on the dwelling which will direct storm water run-off into drywells on the property. Temporary above ground irrigation will be used for mitigation plantings. Bob Hartwell asked about the pre-existing accessory building on the property. Amy stated that the dwelling was built before the Wetlands Protection Act, and that they were not proposing to do any work on it. Amy recommended approval of the project as proposed, with a condition that the proposed shell/pea stone walk be contained.

Bob Sarantis MOVED and Brad Chase SECONDED the approval of the project as proposed, with a condition that the proposed shell/pea stone walk be contained with the thin metal edging as proposed. Vote was 5 in favor, 0 opposed and 1 abstained (O'Leary); Motion carried.

CHANGE IN PLANS:

1. Colin & Robin Fuller, 26 Kevin Road, SE32-2177

Rick Judd of Moran Engineering and Bob Stello of Stello Construction were present on behalf of the owner. They are proposing a change of the original approved plans (SE32-2177) to move the garage 1' to the North. The revision will allow for the garage to be setback further from the road layout for the purpose of requiring less relief from the Town Zoning Code and requesting approval through the Harwich Board of Appeals.

Mr. Stello said that there is a tremendous slope on the property and a proposed 3' wall of stone will prevent possible erosion. Amy recommended approval for the change in plans to move the garage 1' to the North with the addition of a 3' stone wall.

Bob Sarantis MOVED and Brad Chase SECONDED the approval of the change in plans as proposed. Vote was 6 in favor & 0 opposed; Motion carried.

2. Alvin & Helen Silverstein, 5 Edith Grove Road, SE32-2218

Mark Burgess, Shorefront Consulting, and owner Alvin Silverstein were present. They are proposing a change of the original approved plans (SE32-2218) to provide stairs, landings and a dock which will provide access to Hinckley's Pond from the dwelling. The original plan has been revised to meet DEP waterways requirements so that the access configuration and dock can be licensed. The 8' width of the previous deck is now being utilized as an 8' long resting and observation landing, in-line with the stairs,

with a 4.25' wide by 14' long landing to the side of the stair access. The 4' wide outer landing for the stairs to the water has been moved to the water side of the landing, leaving a straight access from the top of the bank to the dock. The upper resting landing is increased in length from 4' to 4.5'. The dock was not moved so that the stairs could line up with the only vegetation gap that exists along the shoreline. The new proposal shows the lower landing and stair section spanning over the vegetation, requiring little trimming, if any, for access to the dock.

Bob Sarantis asked about the storage of the docks in the off season. The landing maintains the ability to store the dock sections. Dock sections can also be carried up the stairs and stored in the driveway if necessary. Bob Hartwell stated that this proposal was a step in the right direction. Amy recommended approval for the change in plans.

Bob Hartwell MOVED and Bob Sarantis SECONDED the approval of the change in plans. Vote was 4 in favor, 1 opposed (Chase) & 1 abstained (O'Leary); Motion carried.

3. Rocco Orsini, 56 Purmackene Lane, SE32-1389

No one was present at the meeting on behalf of the owner. The applicant has requested a continuance until the November 18, 2015 Harwich Conservation Commission meeting, to further review their application. Amy explained the history of the property and permitting and recommended the continuance.

Bob Hartwell MOVED and Bob Sarantis SECONDED the request for continuance until the November 18, 2015 Harwich Conservation Commission meeting. Vote was 6 in favor and 0 opposed; Motion carried.

ORDERS OF CONDITIONS

Town of Harwich, 343 Lower County Road (Allens Harbor), Map 12 Parcels Y1-58A, B & 2- Installation of a concrete curb consisting of nine 10' lengths of buried "jersey barriers" onto 6" of crushed stone, and repairing and reinforcement of a revetment wall at the edge of the existing parking lot adjacent to the harbor.

Amy stated that the majority of the conditions have to do with erosion control and sediment containment.

Brad Chase questioned Special Condition #3 and if the wording should be changed. Condition should be changed to read "An as-built plan certified by the engineer is required within 1 year of completion of project."

Bob Hartwell asked about boat storage which in the past has taken place on the grass. Conservation Administrator and Harbormaster shall work together to improve boat storage, which will create a Special Condition # 7.

Bob Hartwell MOVED and Bob Sarantis SECONDED to issue a Certificate of Compliance with the changed wording of special condition # 3 and the addition of special condition # 7. Vote was 6 in favor and 0 opposed; Motion carried.

Ann Fagan, 2059 Route 28, Map 109, Parcel R2-Removal of existing single family dwelling, garage and driveway and reconstruction of a new single family dwelling with driveway and patio.

Amy stated that a Special Condition was added requesting a monthly progress report, due on the 1st of each month, be submitted. Special Condition # 4 shall be revised to read "An as-built plan certified by the

engineer is required upon completion of the project.” Special Condition # 8 shall be modified regarding no fertilizer or underground irrigation will be permitted within the wetland or buffer zone and shall remain in perpetuity and shall not be released by Certificate of Compliance.

Bob Sarantis MOVED and Brad Chase SECONDED to issue a Certificate of Compliance with the changed wording of special conditions # 4 & 8. Vote was 5 in favor, 0 opposed & 1 abstained (O’Leary); Motion carried.

John & Leslie Hardy, 26 Walkerwoods Drive, Map 94, Parcel A5-7- Amend the existing Order of Conditions to include the construction of an outdoor kitchen with a patio. Previously permitted under DEP File # SE32-2215

Amy informed the Board that the plans show the fence and outdoor kitchen with a patio will be moved 5’ landward.

Bob Sarantis MOVED and Brad Chase SECONDED to issue a Certificate of Compliance for the project. Vote was 6 in favor and 0 opposed; Motion carried.

ORDER OF RESOURCE AREA DELINEATION

Mark Lynch Jr., Smelt Creek between Lynch Lane and Old Brewster-Harwich Road, Map 65, Parcels M1, M2, M3, N5-6, N5-7 and two parcels south of M3-Confirmation from the Conservation Commission that Smelt Creek is a perennial stream and that it has an associated Riverfront area. No work is being requested or proposed for any of the parcels at this time.

Amy recommended approval to determine that the delineation is correct for Smelt Creek, that it is a perennial stream, and that it has an associated Riverfront Area.

Bob Hartwell MOVED and Bob Sarantis SECONDED to confirm approval that the delineation is correct for Smelt Creek. Vote was 5 in favor, 0 opposed & 1 abstained (O’Leary); Motion carried.

CERTIFICATE OF COMPLIANCE

None discussed.

MINUTES September 2, 2015-October 7, 2015

None discussed.

ANY OTHER BUSINESS WHICH MAY COME BEFORE THE COMMISSION

Derek Webber, 236 Division Street-Building a shed within the 50’ No Disturb Zone. Mr. Webber was written and issued a \$300.00 citation. Amy recommended that the Commission also have Mr. Webber remove the structure from the 50’ buffer.

Derek Webber was present. Amy explained the history of her conversations with Mr. Webber and her site visit to the house. After Amy returned to the office after her visit to the property, she noticed that where they wanted to put the shed was in the 50’ buffer. Amy stated that she would work with the applicant to

find a location for the shed. It is a difficult, small lot with tough topography. They found a place outside the 50' buffer and an Administrative Review permit was issued. Approximately a week later, Mr. Webber came into the office for a building permit, and it was noted that the shed was already built and located in the 50' buffer. It was made very clear on site plans as well as multiple discussions that the shed could not be built in the 50' buffer. Upon a site visit conducted on October 21, 2015, Amy noted that a fence had appeared to be constructed in the 50' buffer as well. She has written an enforcement order for a stop work order and an enforcement fine was issued for \$300.00 for the shed and she recommended that a fine be issued for the fence and well as ordering the structures be removed.

Mr. Webber stated that he is new to this process and was confused about the location of the shed and didn't know putting a fence up was considered "illegal." There has been a great amount of correspondence between Amy and the property owner. Mr. Webber said that when he purchased the property, he didn't know about any wetland bylaws. Mr. Webber knew that he needed Conservation approval for the shed. Mr. Webber stated that he was not happy about how he was treated when he visited the Building Department for a permit application.

When Mr. Webber spoke with Amy about the shed, he stated that he would need it for privacy purposes. Amy had suggested possibly constructing a fence for privacy, rather than a shed. A fence would not be allowed in the 50' buffer, but would be a better option for privacy on his property in another location.

Mr. Webber presented the Commission members with a document and requested that the members sign it, at the direction of his council. Mr. Webber stated that there are no signs that say it is a wetland, which is a shrub swamp. Laser range finder from the shed to the water is 120' per Mr. Webber. Mr. Webber stated that he is confused by the process of permitting and is simply looking for a place to store his tools.

The first time Amy met with Mr. Webber's mother, she went back to the office and copied the site plan and colored it with labels and responded that the shed could not go in the 50' buffer. Amy stated that she was trying to work with the owner to find a location to fit a small shed on the property by doing a site visit. After the site drawing was done, Amy and Mr. Webber had agreed that the shed could be built where Amy had drawn the sketch.

As of the meeting, the fine for the fence had not been issued. Amy felt that the fence was new. Mr. Webber stated that he put the fence up in 2010 to keep his dog in the yard. Amy stated that the wood used for the fence appeared to be new. Mr. Webber stated that the wood used for the fence is really good wood and that it was installed a few years ago.

Brad Chase stated that he feels the shed should be removed from the 50' buffer, and then possibly some relaxation on the fines would be given. The structure is non-compliant. Mr. Webber stated that thought he already had the permit for the shed, and that when he built it, he tried to put it in the furthest location away from the wetland.

Bob Sarantis stated that the shed should be removed within a certain amount of time, or the fines will be upheld. Mr. Webber said that the location where Amy said the shed could be located does not have even ground and is to buggy.

John Rosetti asked what the purpose of the shed would be. Mr. Webber said that the shed would be used for tool storage, bike storage etc. He also said that he built the shed himself. Mr. Rosetti reminded Mr. Webber that any time a homeowner does work on their property, they should check with all regulatory departments before starting work.

Mr. Webber asked that a Committee member visit his property and tell him where to build the shed. Walter Diggs stated that he can construct the shed outside of the 50' buffer. Mr. Rosetti stated that he feels Mr. Webber is a competent person and can figure out a place to put the shed. A discussion of possible shed locations took place.

A discussion of shed setbacks from the property lines was asked. Amy stated that Mr. Webber should speak with the Building Department regarding setback requirements.

From the 1st time Amy visited the site, to the second time, there was no construction of a shed. Amy stated that the fence looked brand new upon her site visit. She feels that the fence was, in the least, replaced. If the fence was replaced in the same spot, Amy stated that she would have at least liked a heads up regarding the project.

A 10x8 shed would not be able to fit in the space that Amy recommended. She permitted a 5x8 shed that would have fit in the space that she recommended. She told Mr. Webber that he could make the shed larger, as long as it was not located in the 50' buffer.

Amy recommended that the shed be removed from the 50' buffer zone and that her \$300.00 fine be upheld. She also stated that she would not issue a citation for the fence. She requested that the shed should be removed by November 5, 2015. Mr. Webber stated that he is going on vacation and would not be able to comply by that date. Mr. Chase suggested a date of November 21, 2015, which Mr. Webber stated would work with his schedule. It was suggested to Mr. Webber to contact professional services regarding the location of the shed.

Brad Chase MOVED and Bob Sarantis SECONDED to order the shed be removed from the 50' buffer zone by November 21, 2015, and if the shed is not moved by a site visit on November 22, 2015, the \$300.00 fine will be upheld and a possible daily fine will be implemented. Vote was 6 in favor and 0 opposed; motion carried.

Shoreline Pools & James Ahern, 58 Snow Inn Road-Emptying pool water into a drain on Snow Inn Road that leads right into Wychmere Harbor. This is a second time violation at this address for Shoreline Pools. Last time this happened, Shoreline Pools was cited and the owner was notified. This time, both Shoreline Pools and the owner were fined in an attempt to ensure this does not happen again. The Commission upheld Amy's decision to fine both contractor and owner.

Catherine Genn, 822 Queen Anne Road- Beginning construction of some sort of structure (appears to be a Pergola with a patio underneath) within the 50' buffer to the pond. We have issued an enforcement to stop work order and a \$300.00 fine. They will attend the November 4, 2015 meeting for a show-cause hearing.

DISCUSSION

Police Chief Dave Guillemette and Animal Control Officer Jack Burns were present to discuss a possible fenced-in area at Thompson's Field, and the potential for limiting dogs to on-leash only in all other town-owned conservation areas. Mr. Burns stated that he doesn't feel a fenced in area would be necessary for safety purposes. Between January 1, 2014 and present, there have only been 4 reported incidents involving dogs and Thompson's Field. He stated that any incidents should be reported to the Animal Control Officer for investigation. Two Committee members and one member from the public stated that they feel uncomfortable going to Thompson's Field because of the dogs. A discussion took place regarding hard leash laws and whether or not they were enforceable. Chief Guillemette stated that as long as there are legal

guidelines to be followed, the Police Department would be happy to help with enforcement as best possible. This past year, the Police Department had bike patrol in Thompson's Field.

Brad Chase wondered if a change of configuration of the fenced in areas would be possible. Bob Hartwell said that the proposed fenced in area is quite large, and wondered about moving the location of the areas.

Bob Sarantis asked if when the land was given to Conservation, if there was any discussion about the land being used by dogs. Amy stated that the land was purchased partially with funds, and there was no discussion of the land and dogs.

The Harwich Conservation Commission will be presenting its application to the CPC on October 29, 2015 and a public meeting will be held in November.

9:25pm Bob Sarantis MOVED to adjourn. Bob Hartwell SECONDED. All in favor, meeting adjourned.

Minutes taken and transcribed by:
Jennifer Clarke. Administrative Assistant

*W W Digen
11-3-2015*