



TOWN OF

HARWICH

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CONSERVATION COMMISSION PHONE (508)-430-7538 FAX (508)430-7531

HARWICH CONSERVATION COMMISSION - MINUTES

WEDNESDAY SEPTEMBER 2, 2020 - 6:30 P.M.

Commissioners and Staff Present Remotely: Chairman Brad Chase, John Ketchum, Carolyn O’Leary, Stanley Pastuszak, James Donovan, Ernest Crabtree and Conservation Administrator Amy Usowski

Applicants and Audience Present Remotely: Larry Ballantine, Betsy Bray, Lynne Hamlyn, David Clark, Mark Burgess, Patti Smith, Heinz Proft, Robyn Michaels, Patti Smith, Stan and Deb Selkow

CALL TO ORDER

By Chairman Brad Chase

HEARINGS

Amended Order of Conditions

Thomas McCabe, 25 Grey Neck Lane, Map 11, Parcel X8-6. Tear-down and re-build of a house.

Lynne Hamlyn of Hamlyn Consulting represented the owners of this property. The Commission had previously approved three additions to the house, but the owners have now decided that they would be better off starting from scratch, and now would like to tear-down and re-build the house. The footprint of the new house would be less than what was previously approved and 50 square feet less than the current footprint. The new plan is set back 63 feet from the wetland, which meets the minimum requirement. Amy Usowski reiterated the benefits of the plan, and recommended that it is accepted as presented. No additional comments were made by the Commissioners or audience members.

Motion by Ernest Crabtree to approve the AOOOC for 25 Grey Neck Lane as proposed. Seconded by John Ketchum. The motion passes unanimously, 6-0.

Notice of Intent

Steve Hassett, 46 Indian Trail, Map 34, Parcel K3-2. New Dwelling with appurtenances.

David Clark of Clark Engineering presented on behalf of the property owners. The plans for this NOI have cut down the size of the house and pulled it back closer to the road. The house is now out of vernal pool habitat, but some grading will be necessary in vernal pool habitat to accommodate the above-ground septic system. They could do no backfilling to stay out of the vernal pool habitat all together, but that would require a retaining wall, so that would be up to the commission. A restoration or landscape plan would still need to be done. Amy Usowski clarifies that David is not looking for a vote tonight, but rather feed-back to see if the project should continue on this trajectory.

The two regulations from the municipal regulations that are in question with this project are the 60-foot no new structure regulation and mitigation of at least 2:1 as this is an undisturbed virgin lot. It is possible that in the future in-lieu fees may be a possible alternative, but that won't be decided on until May of 2021 at Town Meeting. David Clark states that he would be able to move the house so that it is outside the 60-foot designation, and could probably move the driveway back as well. John Ketchum states that while he appreciates all the work that they have put in on this project, he would have a hard time approving this plan as it is undisturbed land. Carolyn O'Leary states that she hesitates to deny the owner the ability to put a house on the land, especially taking into consideration the efforts they have made to follow the conservation regulations. Carolyn would be in favor of making a condition that no non-native plants are used in the landscaping within the 100-foot zone, and no irrigation would be allowed. James Donovan states that he cannot support the plan on this lot despite the down-sizing efforts due to it not meeting the mitigation requirements. Ernest Crabtree states that with the current plan not being outside of the 60-foot buffer zone and with the lack of mitigation opportunities, he is not comfortable approving this plan at this time, but it could be revisited on a future date if the in-lieu fees are approved. Chairman Brad Chase points out the two variances of the 60-foot buffer and mitigation problems as his reasons for also not supporting this plan at this time.

David Clark asks for another continuance. Chairman Brad Chase makes a motion to grant the continuance until September 16, 2020. The motion passes unanimously, 6-0.

Donald Annino, 14 Mill Point Road, Map 1 Parcel J1-94. Proposed pier, ramp and float.

They have requested a continuance until October 7, 2020.

Motion to grant continuance by Chairman Brad Chase. Seconded by Carolyn O'Leary. The motion passes unanimously, 6-0.

Oliver Cox, 7 Sketcheconet Way, Map 4 Parcel C1-4. Proposed pier, ramp and float.

They have requested a continuance until October 7, 2020.

Motion to grant continuance by Chairman Brad Chase. Seconded by Stanley Pastuszak. The motion passes unanimously, 6-0.

Orders of Conditions

Wychmere Harbor Real Estate LLC, 23 Snow Inn Rd, Map 8 Parcel P2, SE 32-2383.

Alterations to the previously approved buildings, landscaping and utilities.

Amy states that the only reason for this OOC rather than the previously approved OOC is that some of the hard-scape is changing in this new plan. John Ketchum asks that the words 'chemical application' be added to the description on page 4 of the document. Ernest Crabtree makes another small typo correction on the same page. Ernest Crabtree asks clarifying questions about the two separate sites for the use of turf. Amy explains that the revision date for the plan is included because the sites are slightly different. Stanley Pastuszak makes another typo correction. There are no further comments.

Motion by Ernest Crabtree to accept the Order of Conditions with the alterations just stated. Seconded by Stanley Pastuszak. Motion passes 5-0-1, with Carolyn O'Leary abstaining.

Administrative Review Request

Robyn Michaels, 28 Catherine Rose Road. Kayak rack to hold up to 6 canoes or kayaks on Hinckley Pond.

Amy Usowski explained that normally, ARs are not brought before the Commission, however because this project is right on the cusp of requiring further permitting, she is asking the Commission to weigh in as part of the review process. Amy has asked that the bottom rungs of the rack be raised up to at least 18 inches off the ground, and that if any boats are not on the rack, they be stored under the deck and not on the beach area. Chairman Brad Chase leads off the discussion by stating that in his opinion this qualifies as a new-structure in the 60-foot zone and for that reason should be treated as an RDA and not an AR. John Ketchum brings up some erosion concerns as in his opinion this rack is likely a shared neighborhood resource. Stanley Pastuszak agrees with John's concerns regarding erosion to the side of the stairs, and adds that he had thought the area was a sandy beach, but in reality it is a vegetated area where the rack is going and he would like it moved if possible. Carolyn brings up the possible need for drafting some kayak rack guidelines in regards to how high, the supports, etc. Robyn Michaels states that she is more than happy to make any changes that the Commission sees fit. James Donovan states that he would like to see this project as an RDA. Ernest Crabtree agrees that it should go through as an RDA. Chairman Brad Chase explains to Robyn what an RDA is, and she agrees that she will fill out the RDA. No action is needed at this time.

Request for Certificate of Compliance

3 Herring Run Rd, SE32-1684. Septic system repair.

Amy Usowski states that the repair was done as permitted, and she recommends that the Commission grant the Certificate of Compliance. There are no comments from the Commissioners. Chairman Brad Chase moves to approve the Certificate of Compliance. Ernest Crabtree seconds. The motion carries unanimously, 6-0.

651 Main Street, SE32-2178. Ramp and float addition to existing structure.

Mark Burgess was virtually present to discuss, but has provided a letter detailing the small changes to the dock that took place. Amy Usowski states that this dock is on Wychmere Harbor, and only one 8'x25' float instead of 2 8'x12.5' floats was installed, and in the same configuration as permitted in 2014. Only two pilings rather than the three that were permitted were installed to secure the float. The float was pushed out two feet from the plan, but it is still shorter than the original – the original dock was 89', the permit was for 82', and the dock currently sits at 84'. Lateral access stairs were installed above mean high water rather than below. The one note that Amy would like to make via a letter to the owner is that off-season storage of the float should be on the upland and outside of the buffer zone. With that reminder, Amy would recommend a Certificate of Compliance. Ernest Crabtree inquires as to why it was permitted for 82' when the rule is generally 80'. Amy explains that there has not been any objection to the structure by the Harbormaster especially seeing as it is now shorter than the original, and Ernest Crabtree asks that they get full approval from the Harbormaster before giving blanket approval. Chairman Brad Chase states that he is familiar with the property and was around for the original vote and believes that the decision had to do with this configuration being shorter than the original. Chairman Brad Chase confirms with Ernest Crabtree that he would like to wait for approval from the Harbormaster before granting the Certificate of Compliance. Mark Burgess states that the original permit for the dock was issued in 1982. Seeing as the 80' rule and the mooring field have changed, the matter will be tabled until the next meeting, September 16, 2020, when the Commission has the Harbormasters opinion.

32 and 44 Chase St, SE32-2193. Replacement of 1 piling at 44 Chase, reconstruct pier, ramp, and float at 32 Chase St.

Amy states that these two properties are a common-ownership and this was filed as one project because the replacement of the piling at 44 Chase was very minor, with more substantial activity at 32 Chase. There were minor changes in the project, but the result was better than what was permitted, which was outlined in the narrative prepared by Mark Burgess. There is a kayak rack on the dock, but it is positioned out past the marsh grass and is not contributing to any shading of the marsh grass. Because it was a reconstruction, shellfish mitigation was not a concern. Amy recommends a Certificate of Compliance. No comments from the Commissioners.

Chairman Brad Chase moves to issue the Certificate Compliance for SE32-2193, seconded by Carolyn O'Leary. The motion carries unanimously, 6-0.

0 Strandway, SE32-2140. Replace existing pier and bulkhead.

Amy states that there were a few small, unproblematic, changes. The replacement has a smaller footprint than the original. This pier does not have a float so there is no issue with winter storage. Amy recommends a Certificate of Compliance be granted. No comments from the Commissioners.

Chairman Brad Chase moves to issue a Certificate of Compliance for SE32-2140, seconded by Carolyn O'Leary. The motion carried unanimously, 6-0.

47 Sequattom, SE32-2385. Dock on Long Pond.

Amy states that this dock was built in compliance with the Order of Conditions. The dock is being stored away from the resource area in the off-season, the poles from the old dock have been removed, and the area has been naturalized. Therefore Amy does recommend a Certificate of Compliance for SE32-2385 with ongoing conditions for winter storage. Chairman Brad Chase asks how long this dock has been in, and Amy responds that this was permitted last year so she is not sure exactly how long it has been in. Mark Burgess states that the dock went in around June or July. Chairman Brad Chase states that there has not been enough time to assess the impact of the structure on the surrounding area. John Ketchum points out that the file for this property is corrupt and that he cannot access it. Most of the commissioners agree that they too were unable to access it. Amy states that she will email another copy of the document. To ensure that everyone can access the document, this matter will be postponed to the next meeting, September 16, 2020.

62 Lower County, SE32-2171. Reconstruction of pier, ramp, and float.

Amy states that this pier was permitted in 2013 and finished in 2014. The small platform leading onto the dock, which was there previously, and the dock was constructed a bit higher than permitted, 5.3' rather than 5'. Only one kayak rack support was installed when two were permitted originally. The marsh has come back very well since the condition was set that the float could not be stored on the marsh. Amy recommends a Certificate of Compliance with the ongoing winter storage conditions. Ernest Crabtree asks if the plans submitted are those that were approved by us. The storage container that was added brings the walkway to 5.5' wide at one point, when normally 4' is what is approved. Amy asks Mark Burgess if he can share the information about whether this was part of the approved plan. Amy directs everyone's attention to the approved plan in the Dropbox folder. It looks like the storage was included in the original approved plan. Amy also states, at Chairman Brad Chase's request, that the owner has complied with the off-season storage order since the conditions were made.

Ernest Crabtree moves to issue a Certificate of Compliance for SE32-2171, seconded by John Ketchum. Motion carries unanimously, 6-0.

Discussion and Possible Vote

Memorial Bench at Merkel Beach

Amy states that Patti Smith approached her about putting in a Memorial Bench at Merkel Beach. This is not only a resource area, but also a property under the care and custody of the Harwich Conservation Commission. Amy recommends that the bench be allowed, if it is, at the location closest to Snow Inn Rd. This choice would also put the bench in a spot that is less of a coastal dune. Patti Smith states that Steve Erwin was a resident of Harwich for over 35 years, and spent a lot of time on Merkel Beach. He passed away earlier this year and a few of his friends would like to put in the memorial bench in his honor. John Ketchum states that he does not see any issue with approving this. Stanley Pastuszak agrees with John. Carolyn agrees as

well, but brings attention to a certain spot with a platform on it. Amy states that any additions to the walkway would not be allowed, but the spot for the bench is not the same spot. Finally, Amy asks whether Patti Smith and the other people in her group would take responsibility for the bench in the instance that it was broken or something of the like. Patti Smith responds that her group would not rely on the Town for repairs and that they are willing to take responsibility for upkeep, as well as giving control over the design of the bench to the Town. Hearing no other comments, Chairman Brad Chase opens a discussion on how this should be handled in order to maintain consistency seeing as the bench is technically a new structure within the resource area. Larry Ballantine brings up that donations like this are normally brought before the Board of Selectmen in order to establish caretaking procedures. Amy states that since the bench will be on Conservation property, she was not aware that it needed to be brought before the Board. Chairman Brad Chase recommends that it is brought before the Town and accepted in order to grant the permissions through the Conservation Commission. Carolyn O'Leary agrees that the caretaking of the bench should be established under the Board, as the lifespan of the bench will likely be longer than the group that has agreed to maintain it.

Chairman Brad Chase recommends that situations like this are handled administratively through the Conservation Agent and the Board of Selectmen. There are no comments from the Commissioners and Amy agrees. Lastly, Chairman Brad Chase asks that the bench is constructed with long-lasting materials.

Update on the Hinckley Pond Watershed Management Plan and water sampling thus far

Recently received new information from the test results due one year after the completion of the project. Chairman Brad Chase states he did not have sufficient time to look over the information. John Ketchum expresses his concern that the information that they had received over a series of emails was not sufficient to constitute a report like they had requested as much of the information was copied and pasted without dates. John goes on to state that it was unclear if they had received the monthly test results that were required by the Order of Conditions. He requests a comprehensive report with an executive summary. Heinz Proft volunteers to answer some of the concerns that were raised. Heinz states that the multiple emails that were forwarded thus far include the monthly reports to date and the interim report, and that the final report which is due in December as well as the September monthly report will be sent along once they are complete. He goes on to point out that due to current circumstances, aspects of the project were put on hold or halted altogether so the management plan is not yet complete, but beside the management plan, everything else has gone well and is on track. Amy states that she will look back through her records to see if she missed some of the plans and will let the Commissioners know if she finds any other information. Stanley Pastuszak adds that he would expect the report to explain the measurements and findings of the data rather than the raw data – he would like interpreted data and findings. Carolyn O'Leary reiterates that she would like a better summary. Heinz states that the water clarity is better, there have been less dead fish, and there have been no algae blooms, so the overall wellbeing of the pond has definitely improved. Ernest Crabtree also requests that there be a presentation of the final results in January after the final report is

complete, and requests that Amy add the presentation to the agenda for some time in January. John Ketchum requests a short summary or list of dates of when the data was collected, and the excel file for each date in the interim while waiting for the final report. Heinz agrees and states that he will ask for those dates and forward the information along.

Stan Selkow said how pleased he and his neighbors are about the clarity and overall wellbeing of the pond, but how he is concerned for the future of the pond, and looks forward to a comprehensive management plan moving forward. Deb Selkow adds that everyone who lives on the pond looks forward to being involved in the process, and hopes that they can continue to help better the pond. John Ketchum recommends that the Hinckleys Pond Association is involved in not only plan implementation but also the initial creation of the management plan. Heinz agrees that the homeowner involvement could be beneficial for the plan itself and for any financial requirements. There is some discussion about potentially creating a bylaw controlling fertilizer use around the pond, and how the Association might be able to control the fertilizer use around the pond.

Town Meeting Announcement

Amy explains that originally the Commission had three items on the warrant, but over the past few weeks the Board of Selectmen has been removing certain more time-consuming, controversial items in order to keep the meeting shorter and encourage more people to come. The Board of Selectmen elected to remove any changes to the by-law from the warrant, which includes in lieu fees, wetland size requirements, etc. The Board of Selectmen also chose to remove any changes to any revolving funds. Both are items that will be addressed at the next Town Meeting. Chairman Brad Chase asked for clarification on regulations versus bylaws. Amy explains that the dock and pier regulations do not need to go to Town Meeting, but larger changes or prohibitions do need to go before the Town.

The Conservation item that is still on the warrant is a CPC request for \$20,000 for managing conservation lands.

Discussion of Management Plan Options for the Herring River Bogs in the Bells Neck Conservation Area.

Chairman Brad Chase states that the options he came up with have been submitted to the Commissioners to review and offer edits, and the hope is that the edits will be finalized for the options, and Amy will include them in a Plan update for the Bog Management Plan, which will be the basis for going to a public hearing, where we will have a vote on what the future of the plan will be. Chairman Brad Chase asks if the Commissioners are okay with the language that was submitted in July or are there any other comments on the content of the Management Plan. He hopes to finalize the wording very soon, so that it can be added to the Plan update, and the Commissioners will be able to review the Plan update later on. Amy explains that if the Commissioners are ready to make any suggestions for edits or to approve of the options then she can go through and make a final document which would then be brought before a public hearing. The draft with her suggested edits is in the DropBox folder for the meeting. John Ketchum clarifies that the notion would be to have a public hearing, receive their edits and suggestions,

and then redraft the document. Chairman Brad Chase clarifies that since this matter has already been to public hearing, the upcoming public hearing would be to present the options and document and vote. Amy recommends having a separate public hearing from the regular meetings as the incoming permit-load is heavy. Stanley Pastuszek asks whether they will have a recommendation to give as to which option is preferred if this is brought to a public hearing. Amy and Chairman Brad Chase state that this would be good, but they have to decide how to go about choosing and announcing the preferred option, as bias should not be shown. Carolyn O'Leary brings up new potential funding for cranberry bog naturalization from the MA Department of Agriculture, and whether anything other than bog naturalization is an option given that information. Chairman Brad Chase states that this property is likely not a candidate for that funding. James Donovan agrees that having something established before the public hearing is a good idea, and has one edit in regards to the mowing. He would like it to state that during the growing season, an eight-foot path is to be maintained in its designated area, as often the path does not go directly to the edge of the bog. After November 1st, the entire area should be mowed from the wetland edge to the path to keep some of the existing meadow areas as meadow. Amy acknowledges these changes. Ernest Crabtree asks what the cost for the other options are as Option 2 is listed as a low-cost option. Amy states that she doesn't think they can assign values to each option, to which Ernest Crabtree recommends that the low-cost wording is removed from Option 2. He goes on to point out that the wording about the harvesting of plants under Option 3 is also feasible for Options 1 and 2, so that could potentially be included. Chairman Brad Chase asks that if they are going to present a preferred plan, they should vote on that at the next meeting before the public hearing, and Carolyn O'Leary states that they have to be sure that they aren't going into the public hearing with a closed mind.

After a few clarifying questions about the logistics of the public hearing, Amy gives an update on some office matters, including the hiring of a part-time administrative assistant while the Assistant Conservation Agent is on maternity leave.

Minutes

August 19, 2020 Executive Session

Hearing no comments or edits on the Minutes, John Ketchum moves to approve the Minutes for the August 19, 2020 Executive Session, seconded by Stanley Pastuszek. Motion carries unanimously, 6-0.

ADJOURNMENT

Chairman Brad Chase moves to adjourn the meeting, seconded by John Ketchum. Motion carries unanimously, 6-0. The meeting is adjourned at 9:26 PM.

Respectfully Submitted,

Melyssa Millett