



## **TOWN OF TRURO CONSERVATION COMMISSION**

**P.O. Box 2030  
Truro MA 02666-0630**

### **Conservation Commission Meeting Minutes: April 2, 2018**

**The meeting and public hearings were called to order at 6:00 P.M. in the Selectman's Meeting Room. Commissioners Present:** Vice Chair, James Bisceglia; Commissioners Jack McMahon, Larry Lown, Diane Messinger, Henry Lum and Linda Noons-Rose. Commissioner Bisceglia called the meeting to order at 6:00.

**Notice of Intent for Head of the Meadow Bike Trail, Cape Cod National Seashore; SE #075-1039;** rehabilitation of existing bike trail within Land Subject to Coastal Storm Flowage and Buffer Zone to Bordering Vegetated Wetland. (Entire path between Head of the Meadow and High Head)

Lauren McKean, NPS planner and Lisa Stanley, chief environmental scientist from BHB, (the park transportation planning contractor) were present to discuss the project to rehabilitate the High head bicycle trail which extends from High Head to Head of the Meadow Road. The 1.9 mile trail is deteriorated, cracked, sunken and overgrown with vegetation. At 6-8 feet wide it is deficient in width. Wetlands have been delineated including the buffer zone to Bordering Vegetated Wetlands and Land Subject to Coastal Storm Flowage.

The proposal includes widening the path to a 10 foot cross section with a 2 foot shoulder on either side of the path. This new width will meet the standards for bicycle pathways and will improve the safety for users of the path by increasing sight lines, creating a more uniform surface, and improving emergency accessibility. The 10 foot width will not be achievable in all areas of the path due to the wetland locations.

The existing pavement will be ground up and used as the base for the new asphalt overlay.

NHESP has not yet provided comment. It was noted that there was no DEP file number issued for this project yet.

Plans submitted propose a gabion at pilgrim spring; it was discovered that a culvert presently exists in that location and there will be a plan revision that shows a culvert, which will be removed and replaced in kind. The trail in that location is in a depression and floods. The plan will propose a change in elevations to address raising the path in this location. Erosion control will include staked straw wattles; disturbed area will be seeded with a grass mix to match existing plant community.

**Motion to continue the hearing until the May 7 meeting; Motion by Commissioner Bisceglia; seconded by Commissioner Lown; the vote was unanimously in favor**

**Notice of Violation:** Work without a permit in the buffer zone to a Coastal Bank; **Jared Colley, contractor for Lawrence Gottesdiener, owner of 39 Bay View Road** (map 39, parcel 65) This matter was continued from March 5, 2018. Jarrod Colley was the contractor who performed the work in violation, without prior review and he attended to discuss the matter with the Commission. Attorney Benjamin Zehnder attended the previous hearing in March. The property owner has also hired a landscape architect for a

landscape plan, and Wilkinson Ecological Design to prepare restoration plans to mitigate the violation and stabilize disturbed soils in the buffer zone. A notice of Intent has not yet been filed but will be ready for the next meeting. The contractor has attended a review of Wetland permitting requirements with the Agent. **Motion by Commissioner Bisceglia to assess a \$250 non-criminal violation citation and fine to the contractor; Seconded by Commissioner Lum. The vote was unanimously in favor.**

- **Notice of Intent for 42 Corn Hill Rd, Henry Morfit & Jane Bunker; SE #075-1033;** Notice of Intent for relocation of existing dwelling, upgrade septic; Barrier Beach, Coastal Dune, Land subject to Coastal Storm Flowage. (Map 45, Parcel 52)(continued from March 5, 2018) (the applicant is seeking to continue the hearing to May 7, 2018)
- **Notice of Intent for 405 Shore Rd, Kenneth Shapiro; SE #075-1038;** demo garage, construct dwelling & appurtenances; Land Subject to Coastal Storm Flowage; Barrier Beach. (Map 10, Parcel 5) (continued from March 5, 2018) (the applicant is seeking to continue the hearing to May 7, 2018)
- **Notice of Intent for 449 Shore Road, Cousins Family Revocable Trust; SE #75- 1026;** proposal for a dwelling, septic system and driveway; Coastal Dune, Barrier Beach; Land Subject to Coastal Storm Flowage and buffer zone of a Bordering Vegetated Wetland. (Map 8, Parcel 15) (Continued from January 8, 2018)(the applicant is seeking to continue the hearing to May 7, 2018)

**Motion to continue 42 Corn Hill Road, 405 Shore Road, and 449 Shore to May 7; Motion by Commissioner Bisceglia; Seconded by Commissioner McMahon; the vote was unanimous.**

**Notice of Intent for 432 Shore Rd, Wind & Wave Condos; SE #075-1036;** Proposed bulkhead replacement (245 Linear feet); Barrier Beach, Land Subject to Coastal Storm Flowage; Coastal Beach. (Map 9, Parcel 8) Paul Shea and William Rogers represented the condominium association to discuss the project to replace their wooden bulkhead. The application was reviewed by NHESP, and was found to be outside their jurisdiction. The existing reinforced concrete bulkhead was designed and constructed in the mid-1980's. The wall is failing, cracked and leaning. The new timber bulkhead was designed by Mr. Rogers and reviewed by a structural engineer. The resource areas are Coastal Beach, Coastal Dune and Land Subject to Coastal Storm Flowage. The design shows a new wall to replace the existing concrete wall which has a very deep footing and will be removed from the landward side. The wall will protect the buildings and have stairs from the top on the seaward side to provide access to the beach.

The new wall will be 245 linear feet in length; and will be supported with 1.25 inch galvanized tie rods every 6 feet locked into a dead-man-pile; this will be a 12 inch timber pile faced with three pressure-treated 2 x 10's.

The wall will align with and be the same height as the Chisolm bulkhead on the east side and will align with, but be a bit lower than the Shapiro bulkhead on the west side. The walls do not connect, and have returns designed on the ends. The space between the bulkheads will be addressed with a "stop-gap" wooden connection to prevent scour between the walls. The stop-gap is a permanent extension of the wall. There was a discussion about the flood zone, which is a Velocity zone at elevation 15'; the wall will be constructed lower than the flood zone elevation and will match the elevation of the

lowest adjacent wall.

The ground area between the buildings and the wall will be planted, and shared pathways will be designated. There was discussion on the access landings, which are platforms about 4' square and will support the proposed beach access stairs which would also be fixed into the ground. There was a question about why the stairs are not removable. It was asked if the design could be adapted to accommodate a seasonal, removable stair.

Adjacent to the building are three decks that will have to be removed and replaced, in-kind.

The construction schedule was discussed and it was suggested that the project would happen before this winter, and would likely take about a month. When asked, the Conservation Agent suggested several conditions based on the discussion and questions from the Commissioners: The removal of the existing concrete bulkhead would occur from the landward portion of the property; the three decks would need to be replaced in-kind with no expansion; the landings would need to be constructed to accommodate removable stairs; the areas between the cottages and the bulkhead will need to be planted with American beachgrass and a pathway plan will need to be submitted to the Conservation office to solidify how the area can be used – (eight paths will need to be reduced to two or three and the volleyball court will need to go);

Mr. Al Silva commented that he participated in the approval process for 3 concrete bulkheads built on beach point, and that 2 of those 3 have failed; the only one that did not fail was designed by Billy Rogers. He was glad to see this failed wall was going to be replaced. He found the design presented to be a very good design.

**Vice Chair Bisceglia moved that the Notice of Intent for 432 Shore Road be approved subject to the conditions as stated; seconded by Commissioner McMahon; the vote was unanimously in favor.**

**Notice of Intent for 538 Shore Rd, buildings 1,2,3 Ebbside Condominiums; SE #075-1037;** Proposed repairs to make property habitable; Barrier Beach, Land Subject to Coastal Storm Flowage; Coastal Beach. (Map 7, Parcel 7)

Paul Shea of Independent Environmental, William Rogers and Lester J. Murphy represented the owners of the 3 buildings at “Ebb-Tide” condominiums on Shore Road. The project includes temporary and immediate repairs to foundations from the high tide storm of December 2017; the Truro Building Commissioner has declared the buildings un-safe and repairs are proposed to correct this condition, and make them livable for the summer.

There are 2 sets of plans, the first show temporary repairs for immediate use; the Building Commissioner also asked that the future plans be developed to begin the process to address the main issue of the property which is that the buildings are too far seaward and located below the flood zone.

The “future” plans show them moved as far landward as possible, right up to the 25 foot zoning setback, and elevated 7 feet on piling foundations to place them above the flood zone; this scenario will be filed under a full notice of intent with more detailed and developed plans. The temporary plans are offered as a first, short-term phase. The temporary repairs are requested with the understanding that the “true” fix will be submitted under a second Notice of Intent.

The Agent summarized that the request includes placement of fill on the seaward side; decks replaced and foundation wall replacement for building#1. Conditions include access for nourishment from the property with sieve analysis for compatibility; fencing off the property to address safety, and notes on the plan.

There was a question about the deeded access for Seasong Condominiums across the street. This access may be temporarily blocked for public safety reasons.

**Vice Chair Bisceglia moved that the Notice of Intent for 538 Shore Road be approved subject to the conditions as stated; seconded by Commissioner Messinger; the vote was unanimously in favor.**

**Notice of Intent/ Ecological Restoration for 8 Falcon Lane, Donna & Charles Ward, SE #075-1038;** land management plan to eradicate phragmites & other invasive plants on an Inland Bank, Bordering Vegetated Wetland.

Nick Crawford from Crawford Land Management was present to describe the project, which was developed with Coastal Engineering. This has approval by NHESP. The phragmites management project was originally approved by 2012 by Wilkinson Ecological Design; active management by Crawford Land Management began in 2015. The shortcomings of the project were things that had not been anticipated initially. The new proposal extends the maintenance and eradication of the phragmites at the same time as it identifies new areas for restoration.

The restoration plan identifies 4 different work areas, and characterized the area invaded by various invasive plants. A1 and A2 have been taken over by shrub honeysuckle and white poplar and will be transitioned to a heath/meadow habitat of sandplain heathlands, which are an endangered habitat. Native plants will be added as needed to support the habitat.

The majority of phragmites has been suppressed in the pond but has spread to the BVW surrounding the pond; this will be removed although some native shrubs will need to be limbed to get at the phragmites. The removal method is bundle, cut and wipe with herbicide (rodeo and EPA approved aquatic herbicide). Eradication of the phragmites requires chemical and mechanical treatment. A schedule of treatment was submitted with the restoration plan.

The 4<sup>th</sup> area includes Japanese black pines that will be removed and the native shrubs in the area will remain. Damaged native shrubs will be flush cut and re-sprouting will be supported. There were questions about the safety of the products **Rodeo** and **Roundup** : Roundup has a surfactant, which can affect invertebrates. It is a non-selective herbicide. Use of Rodeo is proposed. There was a question about wells. Nick stated that the chemical in Rodeo binds to soil particles and does not migrate beyond a foot or so. There is not a residual effect as the active ingredient is broken down by sunlight and microorganisms. There was a question about why the products get a bad rap and Commissioner McMahon responded with an explanation about the training that the licensed applicators must have and the type of protective equipment that they do and do not need. Both products are unrestricted in their sale in the state.

The Agent had questions about the management activities timeline. In order to avoid conflicts with nesting birds the mowing work this spring will be done by hand; this will be done in the future during the winter. Areas marked P have previously been treated. It was noted that the Wards have taken on a project that has significant ecological benefits to the surrounding areas.

A letter from abutter Karen Thurman was included in the record; the letter expressed concerns about the use of glyphosate, other invasive species, and the length of time of the project. Mr. Crawford had already spoken with the abutter by the night of the hearing.

**Vice Chair Bisceglia moved that the Notice of Intent for 8 Falcon Lane be approved subject to the conditions as stated; seconded by Commissioner Lown; the vote was unanimously in favor.**

The Commission wished Mr. Crawford a Happy Birthday.

**Request of Determination of Applicability for 8 Second Landing Way, Bleemer & Losen Rev Trust**, rebuild porch on sonotubes; Buffer Zone to Coastal Bank. (Map 45, Parcel 38.16) Replacement of covered porch. Laurie Fererra of Peters Property Management represented the owners. The project will repair damage done to the building from the storm in December. Proposal includes repairing the deck and placing it on a foundation of sono-tubes with 6x6 posts. The Commission asked that a work limit be established to protect the vegetation, and that the beach grass be replanted.

**Vice Chair Bisceglia moved the Commission approve a Negative three determination for 8 Second Landing Way with conditions; seconded by Commissioner Lown; the vote was unanimously in favor.**

Minutes of January were moved for approval by Commissioner Lown; seconded by Commissioner McMahon. The vote was unanimously in favor.

Minutes of February were moved for approval by Commissioner Bisceglia, seconded by Commissioner Messinger. The vote was unanimously in favor.

Minutes of March were moved for approval by Commissioner Lown, seconded by Commissioner McMahon. The vote was unanimously in favor.

**Administrative review permit:** 118 North Pamet Road; installing snow fence at top of the Coastal Bank. This was previously approved by the Chair as an emergency, and requires ratification by the Commission. **Motion to approve by Vice Chair Bisceglia; seconded by Commissioner Noons-Rose. The vote was unanimously in favor.**

**Field Change for 33 Cooper Road;** (Map 58, parcel 65) SE #75-0910; additional native plants for screening requested by owner. **Motion to approve by Vice Chair Bisceglia; seconded by Commissioner Noons-Rose. The vote was unanimously in favor.**

**Field Change for 0 Ballston Beach** (parking lot)(Map 48, parcel 5) SE #75-1000; request by the Town to remove additional 6 parking spaces and relocate the split rail fence. Work will be done under the same protocols in the OC. **Motion to approve by Vice Chair Bisceglia; seconded by Commissioner Messinger. The vote was unanimously in favor.**

**Truro Public Works Project Notifications:**

**Long Nook Beach** access- see report by Greg Berman, Coastal Geologist from the Woods Hole Sea Grant program and the Cape Cod Cooperative extension

**All Town owned beaches** and beach landings; 1 culvert on North Pamet Road, and 3 culverts on South Pamet road. Activities include removing sand, brush and debris.

**Motion to ratify the Truro Public works notifications by Vice Chair Bisceglia; seconded by Commissioner Noons-Rose. The vote was unanimously in favor.**

Update on work at **482 Shore Road, Seaside Inn, SE #075-1005** (see correspondence from East Cape Engineering) this project was approved with an Order of Conditions in 2017 to repair a section of the seawall which had been damaged and was causing sand to leak out during storms resulting in sinkholes behind the wall. A 20 foot section was authorized for repair. Further damage to the seawall has been discovered and East Cape has requested to continue repair to the wall under the order of conditions. The engineer has submitted a letter requesting permission to continue repairs, using the same protocols. **Motion to accept the request to do additional work under the existing order of conditions at 482 Shore Road by Vice Chair Bisceglia; seconded by Commissioner Messinger. The vote was unanimously in favor.**

The Agent reported on the following:

- There will be a training exercise/regional drill between town fire departments and harbormaster officers, MA DEP/CG/NPS to be held April 18, 2018.
- Pesticide presentation by experts from the State in Wellfleet called “Bug-Off” will be presented May 2 to address improper pesticide use.
- April 9 open meeting law presentation by KP Law for regulatory boards at Truro Community center.
- Emergency Certification Permit for 135 South Pamet to be removed under a controlled demolition this upcoming week. **Vice Chair Jim Bisceglia moved to approve the Emergency Cert permit; second by Commissioner McMahon; there was considerable regret expressed by individual Commissioners; the vote was 5-1 in favor.** They were all opposed in their hearts to this action. The emergency certification was signed by the Commission.

Meeting was adjourned at 8:11 PM

Site visits: The Commissioners met on Monday April 2, 2018, at 1:00 PM at the Cobb library, and proceeded to: 1) 42 Corn Hill Road; 2) 8 Second Landing Way; 3) 8 Falcon Lane 4) 405 Shore Road; 5) 432 Shore Road; 6) 538 Shore Road

Minutes prepared by E.Beebe