



TOWN OF TRURO
Conservation Commission
24 Town Hall Road
P.O. Box 2030, Truro MA 02666

Conservation Commission Meeting Minutes

November 7, 2016

6:15 P.M. in the Selectman's Meeting Room

Members Present: Chair Deborah McCutcheon, Henry Lum, Jim Bisceglia, Jack McMahon, Larry Lown, Diane Messinger

Others Present: Emily Beebe, Conservation Agent

Motion to approve the September 12, 2016 meeting minutes with corrections, by Bisceglia; second by Lown. Approved unanimously.

The Commission approved the 2017 meeting schedule by consensus.

Water Resources Oversight Committee: Peter Romanelli has been the representative from the Conservation Commission and continues to attend WROC meetings; although he is no longer a member of the Commission he would continue to be the representative for the Commission and will report back once or twice per year. **Motion to approve Peter Romanelli continuing to serve as Conservation Commission representative on the Water Resources Oversight Committee by Bisceglia; second by Messinger. Approved unanimously.**

AmeriCorps project update: Katie LeVander is the AmeriCorps member working with Truro Conservation staff on Tuesdays on the vernal pool project. The Truro and Provincetown Conservation Commissions are partnering on the project to identify and certify vernal pools. Katie will be presenting to the group, likely in late winter.

Proposed Beach Cleanup: The health/conservation and the recreation/beach departments are looking to schedule AmeriCorps group projects for beach cleanups in 2017. Staff is hoping for participation by the Conservation Commission, Beach Commission, and other interested boards or committees. No dates have been set at this point; group projects are held on Mondays, Thursdays and Fridays.

566 Shore Rd, Administrative Review, Ocean Breeze Condominiums, installation of snow fencing: The applicant wishes to install snow fencing in the winter and removed in the spring. **Motion to approve by Lum; second by McMahon. Approved unanimously.**

Slough Pond & Black Pond, Administrative Review, Town of Truro, maintenance of sand roads: The Town must perform maintenance on the dirt roads to improve access for emergency vehicles; they will address potholes and encroaching vegetation by brushing

back and grading where needed. Work will be done with the smallest piece of equipment the Town owns and is limited to a scope of work developed by DPW director Jarrod Cabral. **Motion to approve by McMahon; second by Lum. Approved unanimously.**

6:30 P.M. PUBLIC HEARINGS The Truro Conservation Commission holds the following public hearings in accordance with the provisions of MGL Ch. 131, s. 40, the Wetlands Protection Act and the Truro Conservation Bylaw, Chapter 8.

The Chair announced that the town would like applicants to submit plans via email, prior to hearings or bring them on a thumb drive to allow them to be displayed on the screen for the public viewing.

73 Depot Rd, Request for Determination of Applicability, William Worthington, trenching to existing septic system: This property has two residences on the lot served by two separate septic systems; proposed work will combine the systems. Bill Worthington was present to describe the work. He proposes excavation of a 40 foot long trench for a single 4 inch diameter connecting pipe; filling the existing leach pit with clean sand and abandoning it in place. **Motion to find a negative 3 determination that work is within jurisdiction, but will not alter an area subject to the Act; a Notice of Intent is not required. Motion by Lown; second by Messinger. Approved unanimously.**

5 Great Hills Ln, Request for Determination of Applicability, Keven & Helena Wise, renovation to single family dwelling: The proposal includes renovation of the outside of an existing dwelling in a Coastal Dune and Flood Plain by replacing siding, trim, and windows and reframing the roof with a pitch.

Jason Ellis and Ryan Weber were present on behalf of the owners to explain the project. Work proposed would require no ground disturbance except by ladders and staging from the existing driveway. Runoff will directed from gutters to downspouts. The Chair asked why they chose to file the RDA. Mr. Ellis stated that they are not altering, dredging or filling a wetland. Commissioner Lown stated that since most work will take place on top of an existing deck, he felt the project should be allowed; Commissioner Bisceglia agreed. The Chair believes a Notice of Intent should be filed so that conditions can be placed on the project. Mr. Ellis stated that if the scope of the work changed he would file an NOI. The Chair asked about construction debris and Weber referred to their site management practices. Staging will be placed around the building so that workers would be walking on planks instead of the ground. Shingles will be collected on tarps. The agent stated that they would have to adhere to the protocols provided in the application and if they stray from those conditions, it is enforceable.

Public Comment: Tobin Gerhart, an abutter from 3 Deschamps Way stated his concerns, but they were not in the purview of the Conservation Commission.

Motion to find a negative 3 determination that work is within an area subject to protection, but work proposed will not alter the area subject to the Act; a Notice of Intent is not required. Motion by Lown; second by Bisceglia. Approved 5-1-0 with McCutcheon against.

4 Payomet Ln, Request for Certificate of Compliance/Non-Compliance with Order of Conditions, SE#74-0972: A request for a certificate of compliance filed in September revealed that a project conducted in March of 2016 involving numerous properties north of Corn Hill was not completed within the requirements of the Orders of Conditions.

Jay Vivian of 6 Corn Hill Landing and Robert Sachs of 4 Payomet Lane were present to discuss how the project unfolded. There was no representative from the contractor, GFM Enterprises present for the hearing. Mr. Vivien described the process used by the neighborhood association to have some of the drift fences repaired. There are eight property owners in the association; four of them chose to participate in the drift fence repair project and they hired GFM enterprises to do the work and JC Ellis for the project permitting. Mr. Vivian said that he dealt with Mr. Morris and Mr. Prada of GFM by email and did not speak with them between getting a quote and the development of a contract. According to Mr. Sachs when the application was brought before the Commission and Mr. Ellis was told that nourishment was required Mr. Sachs had not agreed to nourish. Mr. Morris emailed Mr. Sachs to let him know that the permit was approved with the nourishment conditions and Mr. Sachs replied that he would rather remove what was in place and avoid the expense of nourishment. Mr. Morris then replied by email that the nourishment was not a requirement, just a recommendation; therefore Mr. Sachs agreed to move forward with his portion of the project. He later received a status report that the work was largely completed. Once he obtained a copy of the Order of Conditions Mr. Sachs wrote to Mr. Ellis and Mr. Morris stating that the problem about nourishment was a problem of their making that they needed to resolve. Mr. Morris replied that he would file a request for a Certificate of Compliance. Mr. Sachs then got a letter from the Agent stating the ways the project was not in compliance.

Mr. Sachs estimates that about 2.5 feet of sand has already accreted behind the new fence and another 6-8 inches of sand would meet the amount of sand nourishment required by the Truro regulations. Mr. Sachs would like to amend the Order of Conditions to add the additional 6-8 inches of sand, rather than the full volume referenced in the Order of Conditions. He went on to say that the yardage estimated by Mr. Ellis and included in his Order of Conditions was the same amount provided by Mr. Ellis in 2010 when the project was originally brought before the Commission under a separate order, and further, that the amount prescribed was excessive. The Chair stated she is not prepared to make any recommendations or findings at this time. Commissioner Lown stated that the homeowner is the responsible party and should be made to rectify the issue and if there is an issue between homeowner and contractor, that is between them. The Chair stated that she believed that Truro contractors should be aware of the regulations, and those that do not properly notify the owners of the requirements, should be dealt with. The Agent stated the work was completed on property without owner authorizations and there is a property where work was done that does not have a valid Order of Conditions. There are six properties with violations and the Commission has the ability to take action with the homeowners and the contractor. Mr. Sachs stated he believes that the property lines were unclear to the contractor and that is why some work occurred on property without authorization. Commissioner Lown suggested getting a legal opinion. Mr. Sachs stated he is willing to remove the fence or figure out a way to come into compliance, but at this point he believes coming into compliance is the better option. This issue will be continued to the December 5, 2016 meeting.

503 Shore Rd Unit 24, Notice of Intent, Jennifer Roberts, new deck, SE# 75-0999: Continued from October 3, 2016. The proposal includes installation of a small deck. Jennifer Roberts was present to answer questions. The proposed deck would be elevated 9 inches to meet the doorstep, and at grade elsewhere. There will be a small planting area in front of the dwelling. RKM Management will do the work. Commission concerns include the increase of built area in the flood zone, concern of it being free to move, decreased infiltration and the potential of cumulative impacts from other unit owners requesting a similar patio. Ms. Roberts stated she is willing to anchor the deck in place. Commissioner Bisceglia stated he is in favor of approving the deck if it is anchored and not freestanding. The Chair would like a site plan with more detail including how the elevations will change and how it will be attached. Commissioner Bisceglia stated that the Commission approves projects of much larger impact and if the abutters have no issues and the applicant is willing to anchor the deck he does not believe the issue should be continued. **Public Comment:** Al Silva commented to the Commission and applicant that if anchoring to the building, the applicant will want to check with the Building Commissioner in regards to the need for a building permit. **Motion to approve the Notice of Intent with the condition that the deck is attached to the house. Motion by Bisceglia; second by Messinger. Approved 4-2-0 with Commissioners McMahon and Lown opposed.**

586 Shore Rd, Notice of Intent, Leonard & Susan Connolly, renovations/landscape work to single family residence, SE# 75-0995: Continued from October 3, 2016. A construction protocol was submitted that addressed issues identified at the last meeting. Mariellen Serena was present for the homeowners. **Motion to approve the Notice of Intent with conditions that incorporate the plans and construction protocol. Motion by McCutcheon; second by Bisceglia. Approved unanimously.**

84 Prince Valley Rd, "After-the-fact" Notice of Intent, Nancy Pease, site work and construction of a retaining wall, SE# 75-0994: This hearing was reopened to allow legal notice of abutters to be accepted into the record, and allow for abutter comment. Additionally NHESP comment needed to be incorporated into the record. The Commission approved the issuance of an Order of Conditions to this applicant at their October 3, 2016 hearing and closed the hearing; however, directly following the last hearing it was determined that proper notice to abutters was not made by certified mail, and, directly following the October hearing the Town learned from NHESP that the project was *not exempt* from a MESA review (a waiver had been filed by the applicant, and applicant assumed they were exempt). Charles Wentz from Ponderosa was in attendance to represent the owners.

A revised plan was submitted that included an outdoor shower with a gravel base for drainage. Mr. Wentz properly notified abutters; the green cards were submitted. Mr. Wentz filed a copy of the NOI with the revised plans to NHESP; NHESP reviewed the project and found that the project will not result in a "take" of any listed species. No abutter comments were made. **Motion to approve the Notice of Intent with incorporation of the landscape plan, revised site plan and planting protocol. Motion by Lown; second by McMahon. Approved unanimously.**

408 Shore Rd, Notice of Intent for proposed construction of single family residence and Request to Amend Order of Conditions for bulkhead replacement, Kevin Shea, SE# 75-0998 and SE# 75-0879: Both hearings were open simultaneously for discussion and deliberation. Chair McCutcheon prefaced the hearings stating that any changes in the plan that occur as a result of hearings with the Zoning Board of Appeals will need to be brought back to the Conservation Commission for approval. The owner, Kevin Shea and his engineer William Rogers were present.

Commissioner Messinger expressed concerned that the new building will be closer to the water than the original cottages. Shea stated that the closest original cottage was 55 feet from the property line with a concrete patio; the proposed building is 57 feet from the property line. A bulkhead was approved under SE #75- 0879 and will be built across the waterside. He explained that they located the house with respect to the zoning setbacks to develop a plan with as few variances as possible. He offered to shift the building back two feet if necessary. William Rogers then returned to the issue of the bulkhead approved in 2012 and the pending request to Amend the existing Order of Conditions; they want Special Condition # 3 removed. Condition #3 requires a revised plan show a setback to the eastern property line; this was required to allow for a possible bulkhead being permitted for the abutting property where the former motel stood, however the owners of the former motel site are not proposing a bulkhead nor are they replacing one, which makes condition #3 moot. Removing Condition #3 would require no changes to the original engineers drawing of the bulkhead.

Public Comment: Abutter Anne Ditacchio of 412 Shore Rd asked for clarification on details of the bulkhead.

The bulkhead will be about one foot higher than the abutting Ditacchio wall because the ground elevations of the Shea property are higher and the wall needed to be above the elevation of the velocity zone; the flood zones have changed since the original approval of the bulkhead. There will be a timber return built to reduce the likelihood of flood water washing out the neighboring property.

Motion to amend Order of Conditions (SE# 75-0879) for the bulkhead, remove condition #3, and to approve the Notice of Intent (SE# 75-0998) for the new house; the special conditions will incorporate notes on the plans and require that the building be moved 2 feet closer to the street and shown on a revised plan; the submittal of a planting plan and construction protocol and further that all revisions required by the ZBA come before the Commission for approval. Motion by Lown; second by Messinger. Approved unanimously.

242 Shore Rd, Notice of Intent, Jason Silva, single family residence renovations and septic upgrade, SE# 75-0997: Proposal to update the septic system and enlarge the timber deck.

Owners Jason Silva and Al Silva were present with David LaJoie from FELCO Engineering.

The concrete walls on site will be removed to install the septic system; the deck will be removed and replaced with a new deck enlarged by three feet. An elevated walkway is designed for access from Shore Road to the beach for people staying across the street. The owners agree that the stairs to the beach will be removed seasonally and a note to that effect will be included in the construction protocol. **Motion to approve the Notice**

of Intent with incorporation of the plan dated 11/4/2016; the construction protocol including the requirement that the beach-stairs are seasonally removed and stored upland. Motion by McCutcheon; second by Lum. Approved unanimously.

218 Shore Rd, Administrative Review for “After-the-Fact” Beach Raking: Beach raking completed without a permit; the Agent informed the owners that an Administrative Review permit application should be filed after-the-fact in this case; in the future the application must be filed prior to this activity. Owners Al Silva and Jason Silva were present. There was discussion about creating a permitting process for this activity as an Administrative review permit is only valid for 30 days; should a Request for Determination of Applicability be filed for this activity, since it would be valid for three years. Al Silva volunteered to work with the Agent to establish guidelines for permitting beach raking for all property owners in the area. **Motion to approve the Administrative Review by McCutcheon; second by McMahon. Approved unanimously.**

402 Shore Rd, Request to Amend Order of Conditions, J. Siniscalco & B. Rybeck, SE# 75-0872: Continued from October 3, 2016. Revised plans, including a foundation plan and house plans were submitted with a project narrative that provided discussion on rebuilding the Coastal Dune.

David Bennett from Bennett Environmental Associates represented the property owner. Because the matter was continued from October 3, 2016, the Chair asked that he sign a waiver for those members who were not present at the last meeting to participate; this was reviewed by their counsel and signed. The proposed dwelling has a slightly smaller footprint than what was previously approved. The plan shows 29 pilings that will be staged at the front of the property in the area designated for parking, then the pilings will be lifted and driven into place by a crane. The new structure will be elevated on a pile foundation which satisfies the performance standards of the wetland protection regulations by not impeding the movement of wind, sand and water. The plan includes rebuilding the dune using snow-fencing and beach grass. More than 500 yards of sand are anticipated to accumulate in approximately three years. Mr. Bennett is not in favor of artificial placement of sand because of in-compatibility; they prefer to let the natural process of dune-building take place. They will plant underneath the building, and the first floor elevation will be near the peak elevation of the dune. Beach grass plugs will be planted at the end of this week per the Order of Conditions for the demolition of the previous building. A revetment was not proposed because there was no residual revetment on the property and Mr. Bennett believes the area has been fairly static and has even had some accretion. The Agent suggested that the Commission may want to add a condition in regards to nourishment in case of large storm events.

Motion to approve the request for Amended Order of Conditions with incorporation of the foundation plan 11/2/2016 and the site plan dated 11/1/2016 with the special condition that no bulkhead will be constructed on the property, that any changes required by the ZBA are brought before the Commission for approval and that a nourishment plan be submitted. Motion by Lown; second by Bisceglia. Approved unanimously. The nourishment plan is to address any sand that is eroded during the three years it will take for the dune to build up and for vegetation to take hold.

1 Bluff Terrace, Request to Amend Order of Conditions, Bluff Terrace LLC, SE# 75-0978: Continued from October 3, 2016. The applicant submitted a revised plan showing a new stair location and a new path. Don Bliss and Tim Brady, PE were both present.

The plan shows a new location of the stairway; the privet hedge is replaced by bayberry; a 3 foot wide stone/shell walkway from the pool to the beach stairs is proposed; a small patio is shown at the southwest corner of the house; lawn on the east side of the house is shown. The lawn area enters into the 35' naturalized buffer. According to the applicant all plantings that were approved on the Wilkinson plan have been installed and the irrigation system will be removed in two years. The privet was moved outside of the buffer zone, but McCutcheon mentioned that it is invasive and if it spreads it will be addressed when a certificate of compliance is requested. **Motion to approve the request to amend the Order of Conditions with incorporation of the plan dated 10/31/2016 and the special condition that the lawn be removed from the 35' buffer. Motion by McCutcheon; second by Bisceglia. Approved 4-0-2.**

62 Corn Hill Rd, Request for Certificate of Compliance, Corn Hill Cottages Condominiums, SE# 75-0569, and 6 River View Rd, Request for Certificate of Compliance, Peter & Peggoty Gilson, SE# 75-0975: The Agent recommended approval for both projects. **Motion to approve the requests for Certificate of Compliance at 62 Corn Hill Rd and 6 River View Rd by Bisceglia; second by Lown. Approved unanimously.**

3 Tom's Hill Path, Request for Change in Plans, SE# 75-0979: The applicant would like to move the garage further back. **Motion to approve by McCutcheon; second by Lown. Approved unanimously.**

588 Shore Rd, Update on Unpermitted Work: The Agent prescribed beach grass planting to which the owner agreed. A final inspection will be conducted to make sure everything is on track and the Agent will report back.

Motion to adjourn by Bisceglia; second by McCutcheon. Approved unanimously. The meeting adjourned at approximately 9:15 p.m.

*******Minutes from Conservation Commission on-sites: November 7, 2016*******

1:15 P.M. Met at the Cobb Library parking lot.

Members Present: Chair Deborah McCutcheon, Larry Lown, Henry Lum, Diane Messinger and Jack McMahon; **Others Present:** Emily Beebe-Asst. Health/Conservation Agent, Nicole Smith-Secretary

73 Depot Rd: Bill Worthington met the Commission on site and explained the project. The Commission viewed the area of the septic connection.

5 Great Hills Lane: The work limit was staked. The Commission viewed the areas where the renovations will take place.

1 Bluff Terrace:

Don Bliss met the Commission on site. The stair placement was staked. The Commission discussed possible alternatives to the placement of the stairs, viewed the area of the proposed patio and noted the unpermitted lawn area.

242 Shore Rd: Jason Silva met the Commission on site to explain the project. The area of work was staked.

408 Shore Rd: Kevin Shea met the Commission on site. The proposed single family residence was staked.

402 Shore Rd: David Bennett met the Commission on site. The proposed single family residence was staked.

503 Shore Rd: Jennifer Roberts met the Commission on site. The proposed deck was staked.

3:30 P.M. site visits concluded. Respectfully Submitted by Nicole Smith, Secretary