



TOWN OF TRURO CONSERVATION COMMISSION

P.O. Box 2030
Truro MA 02666-0630

Conservation Commission Meeting Minutes: December 4, 2017

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; Diane Messinger; Henry Lum; Larry Lown; Jack McMahon **Others Present:** Emily Beebe, Conservation Agent

75 Depot Road, Town of Truro; SE#75-1028: Notice of Intent for construction of dingy dock and re-permitting of float dock structure, ramp and pier. Resource Areas include Coastal Bank; Land subject to Coastal Storm Flowage; Land under the Ocean; Coastal Beach; Salt Marsh; Land Containing Shellfish; and Estimated Habitats of Rare Wildlife for coastal wetlands. Charlie Agro, the Town's engineering representative from Coastal Engineering Company provided the Commission with a description of the plans. The project is partially grant-funded and would increase the float space area at the Town pier. Construction would include installation of up to 3 new 12-inch diameter steel pier posts to which the floats would be chained. Mr. Agro stated that the new floats would allow small boats to temporarily tie up as they wait to use the ramp rather than to idle in other areas of the harbor. The new floats would be established in an area with approximately 5 feet of water, which is deep enough to keep the pier floating at all times of the tide, and not resting on the bottom. Eelgrass mapping indicates no presence of eelgrass in the inner harbor area.

The Commissioners were concerned that this expansion would encourage more boats to use the harbor; Mr. Agro stated that the proposed addition of floats would accommodate the existing level of boats and have less impact over time as the boats currently have to idle in less desirable parts of the harbor where they have more impact; this would also improve the safety of the harbor. When asked how the piers would be installed he specified either jetting or by impact; if the contractor proposes to jet them in they will need to submit a protocol for using a siltation boom. This will be discussed with the agent during pre-construction and can be conditioned.

A comment came from Mr. Peabody in the audience suggesting that the piers be installed on an in-coming tide to allow the marsh to absorb the sediment, which is a function of the Salt Marsh. He told the Commission that the incoming tide has a larger hydraulic head than the outgoing tide, and can function as transport energy for the sediment and build the salt marsh. The proposed work is time of year restricted.

Motion to approve the project with conditions; motion by Commissioner Biseglia; seconded by Commissioner McMahon; the vote was unanimously in favor, 5-0-0.

449 Shore Road, Cousins Family Revocable Trust; SE #75- 1026: Notice of Intent to construct a dwelling, septic system and driveway. Resource areas include Coastal Dune; Barrier Beach; Land Subject to Coastal Storm Flowage and buffer zone of a Bordering vegetated wetland. This matter was continued from the Commission's November 6 meeting; since then additional plans have been received that show planting. Mr. David

Lajoie from Felco Engineering presented his project to the Commission. The project shows construction of a new dwelling on a 9,500-square foot lot affected by a fresh water wetland. The proposal includes a construction work-limit that is 16 feet from the wetland. Because of the wetland they propose using a FAST-style septic system for the wastewater. The footprint of the proposed dwelling is 40 feet by 24 feet and it would be elevated above the flood height to address its location within the resource area of Land subject to Coastal Storm Flowage at elevation 13 feet. This detail includes adding fill and constructing the house several feet above the filled grade. The site slopes from the road to the freshwater wetland. The proposed driveway would be pervious.

Local zoning requires the structure be setback at least 25 feet from the road and 27 feet is provided. Because they need to meet the minimum setbacks for zoning the proposal provides a 22' separation between the wetland and the foundation of the structure. Mr. Lajoie stated that the Cape style house they propose makes it harder to redesign the house to different dimensions. He suggests planting between the final structure and the wetland to mitigate its proximity to the resource area; this planting is shown on the new plan.

The septic system design includes a nitrogen reducing "micro- FAST" type system; Mr. Lajoie stated that it is a significant way to protect the resource areas.

The Commission requires at least 35 feet between wetland resource areas and structures, and this requirement was discussed. The Agent suggested that there may be another way to obtain relief for the zoning setbacks. Mr. Lajoie asked what it is that the 35' minimum is intended to do?

The Agent commented that the project as proposed may require zoning action due to the date of the subdivision of this lot. The Agent also said that the wetlands protection act regulations require the applicant to file for any permits that the project needs. The applicant must have the Building Commissioner make the determination about whether zoning action is required. Mr. Lajoie said that other towns require Conservation to be filed first, but said that he would consult with the Building Commissioner.

Commissioner Bisceglia asked about the Commissions policy to require 35 feet separating a dwelling and a wetland, and if the Commission had the authority to grant a waiver and if so under what conditions. The Agent responded that Commission did have the authority, but must evaluate the evidence that proved there would be no adverse effects on the wetland. The closer you get to a wetland with a construction project the more adverse effects are likely; the real issue is the extent of these adverse effects. The Agent referenced the slope of the site and that construction would change the hydrology of the area. The Truro Conservation Commission has consistently applied their policy to require at least a 35-foot vegetated setback. The purpose of the buffer is to support the wetland functions. The Agent submitted literature to the Commission and applicant detailing the functions of wetland buffers and suggested that the applicant must present evidence that the proposal will not affect the wetland with their work in the buffer. The Chair asked what kinds of evidence would need to be submitted, the Agent responded that it was up to the applicant. The applicant responded that he had done that with his proposal, and that the freshwater wetland performance standards require that you don't fill it, and that the buffer zone setback to the wetland is not a mitigating measure. He stated that the proposal includes controlling run off, providing a pervious driveway and a special septic system to mitigate without adversely affecting the wetland.

Commissioner Lown mentioned that other towns have 50-foot setback where no construction can happen, and that 35 feet is their minimum; he asked Mr. Lajoie to

comment on this. Mr. Lajoie responded that because of the lot depth and meeting the zoning setback from the road and the width of the building they do not have the 35-foot separation to the wetland.

Mr. Lajoie stated that by the Commission granting the relief from their policy they will not adversely affect the wetland.

Commissioner Lown asked how to condition a property where it is for sale and there is no house plan. Mr. Lajoie responded that what happens above the foundation does not have any impact on the wetland area. Commissioner Lown disagreed, and said that the roof runoff and what happens outside as people walk around the house will have ongoing effects. Mr. Lajoie responded that they were providing drainage of a stone trench at the drip-line for roof runoff and a permanent work limit including a split-rail fence or roses to keep people from accessing the wetland.

There was discussion about the lot being for sale, and it was determined that the sale question comes after the first question which is can the house construction be conditioned. It was further stated that not just the construction, but the on-going use of the property will affect the wetland, as the closer activities are to the wetland the more effects will occur and conversely the further away, the more resiliency there is.

It was asked if they could you design a smaller house and a house that is closer to the road? The footprint of the structure proposed is 960 square feet.

The Agent suggested to the Commission that if they needed more information about the resource area, an analysis by a consultant is something they should consider under the bylaw. The Chair suggested that if the house could be moved closer to the road, that would help the chances of the proposal being conditioned.

There was a comment from Mr. Jim Downey, an abutter who is the real estate agent for the applicant offered information about the difficulty of obtaining a zoning variance, which he felt that the Commission was suggesting. Mr. Lajoie suggested that they might be able to provide more setback to the wetland.

The Agent provided the overview of the process for hiring a consultant, which would be paid for by the applicant. A cost estimate would be forwarded to the applicant. Mr. Lajoie agreed to this process. Mr. Lajoie will explore the zoning process with the Building Commissioner. He further stated that the question is whether the construction will affect the resource area; the construction is in the buffer zone, and he stated that 22 feet is adequate to protect the wetland, while you are saying that 35 feet is required; 35' is such an arbitrary number. He felt he was submitting information that supports that they will not affect the resource area.

Motion to continue this matter to the January meeting, and direct the Agent to contact a consultant and get an estimate for the proposed charges for someone to study the site and determine if something can make the proposal more favorable; motion by Commissioner Bisceglia; seconded by Commissioner Lum; the vote was unanimously in favor, 5-0-0.

Discussion Items:

There was a brief discussion of the minutes from the November 6, 2017 meeting. **Motion**

to approve the minutes by Commissioner Lown; seconded by Commissioner Messinger; the vote was unanimously in favor, 5-0-0.

361 Shore Road; certificate of compliance request for SE #75-996; (map 10, parcel 16) This was a project that began with enforcement, as it commenced without prior review. Gordon Peabody was present to describe how the project has succeeded to restoring the plant community at this site and answer any questions.

Motion to approve the minutes by Commissioner Bisceglia; seconded by Commissioner Messinger; the vote was unanimously in favor, 5-0-0.

The following certificate requests were voted together:

2 Corn Hill Path; certificate of compliance request for SE #75-983;(map 45, parcel 25)

36 Corn Hill Road; certificate of compliance request for SE #75-973;(map 45, parcel 119); **587 Shore Road;** certificate of compliance request for SE#75-767 ; (map 5, parcel 2). **Motion to approve issuance of the certificates of compliance by Commissioner Lown; seconded by Commissioner Messinger; the vote was unanimously in favor, 5-0-0.**

The following administrative review permit requests were voted together:

8 Castle Road; administrative review permit; (Map 50, parcel 141)

9 Cormorant Road; administrative review permit; (Map 42, parcel 260)

Motion to approve the administrative permit requests by Commissioner Bisceglia; seconded by Commissioner Messinger; the vote was unanimously in favor, 5-0-0.

The Agent asked if there were any concerns about issuance by the State of a Superseding Order of Conditions extension request for 386 Shore Road (map 10, parcel 28); none were voiced.

Motion to adjourn the meeting by Commissioner Bisceglia; seconded by Commissioner Lown; the vote was unanimously in favor, 5-0-0. Meeting adjourned at 7:03 PM.

DECEMBER 4 Site visit minutes: Commissioners in attendance: Diane Messinger, Larry Lown, Henry Lum, accompanied by Emily Beebe.

The Commission met at Cobb Library at 1:00 PM and proceeded to 75 Depot Road where the Commission viewed the pier area. The Commission drove to Beach Point and looked at the project area of 449 Shore Road; they proceeded to 386 Shore Road and viewed the site where an SOC has been requested of the MA DEP.

The site visits concluded at 3:15 PM.

Minutes prepared by E. Beebe