

Conservation Commission  
Zoom Minutes February 16, 2021 9:00 AM Town Hall  
FINAL

Present for the Conservation Commission and attending the zoom call were: Chris Murphy, Chairman, Joan Malkin, Pam Goff, Sandy Broyard, Candy Shweder, Doug West, Russell Maloney, Kara Shemeth and Chuck Hodgkinson. Reid Silva, Tracey Smith, Rick Shweder, Jennie Greene, Terry Meinelt, Peter Bruce, Mark Manganello, Ursula Goodenough, David Loges, Peter Loges and George Crawford also attended. Bob Hungerford did not attend. ZOOM Meeting ID: 96656978365.

Mr. Murphy brought the meeting to order at 9:02 AM and asked for a rollcall of attendees. He then appointed Alternate Commissioner Doug West as a voting member for the day's agenda.

**CONTINUED PUBLIC HEARING NOI SE 12 - 863; REID SILVA FOR OF A FEATHER, LLC; 146 Quenames Road; AP 23-7: Eligible voters: Chris, Pam, Candy, Joan, Doug, Russell:** Mr. Murphy confirmed the eligible voters are present and opened the continued hearing at 9:04 am. Mr. Silva explained he has not yet received the report from the owner's consultant or the NHESP and requested the hearing be continued to March 16, 2021 @ 9:05 am. A motion was made and seconded to accept the request. With no further discussion the motion passed unanimously with six in favor via a roll call vote. The NOI is to construct a new, 4,200 + sq. ft. dwelling, trench and install a well, septic system, utilities and a driveway and parking lot with associated site work and re-landscaping. The house will be supported by an excavated and poured pile foundation system that exceeds the FEMA flood requirements. The entire house is within the flood zone -- Land Subject to Coastal Storm Flowage (flood zone) of Chilmark Pond. The septic system is outside the flood zone but will have trenching to the house within the flood zone.

**CONTINUED PUBLIC HEARING NOI SE 12 - 869; REID SILVA FOR BENTAGROUND, LLC.; 22 Cove Road; AP 27.1-224: Eligible voters: Chris, Pam, Candy, Sandy, Doug, Russell, Joan:** Mr. Murphy confirmed all voters are present and opened the continued hearing at 9:24 am. Mr. Silva explained the hearing was continued to allow for a site visit that was canceled for the previous meeting due to weather. He summarized and reviewed the site plan to add a net total of 226 sq. ft. of decking and a bathroom addition. The bathroom adds 36 sq. ft.; 56 sq. ft. of elevated decking will be removed and replaced with 246 sq. ft. of ground-level decking. The bathroom addition is above grade and will be supported with piers much as the current elevated deck is supported. All of the activity is within the 100-foot buffer zone of a Bordering Vegetated Wetland draining into Menemsha Pond. The closest activity is approximately 11.5 feet from the wetland edge. The Commission discussed its observations from the site visit that identified a drainage stream of sorts running down grade near the house and commented this lot is small, very sensitive and was developed with two habitable dwellings before the wetland bylaws existed. If this were a vacant lot today, this level of development would not be permitted. There was much discussion about the need to add more living space to this already crowded lot and the size of the new deck. It also commented the yard is mowed to the wetland edges that surround the dwellings. After much discussion Mr. Silva requested the hearing be continued to March 2, 2021 @ 9:05 am to allow time for him to talk with his client about the comments raised today. A motion was made to grant the request. The motion was seconded and with no further discussion passed unanimously with seven in favor.

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**CONTINUED PUBLIC HEARING SE 12 – 867; REID SILVA FOR KEVIN AND ELIZABETH OLIVER; 508 North Rd.; AP 27.1-52, 53: Eligible voters: Chris, Pam,**

**Candy, Sandy, Russell, Joan, Doug:** Mr. Murphy confirmed the seven eligible voters are present and opened the continued hearing at 9:44 am. Mr. Silva explained the original NOI was to upgrade the septic system and install a new foundation under the existing dwelling. The owner subsequently requested the scope of the work be expanded to include a complete reconstruction of the existing house and deck. The footprints of both structures would not change. He added the Commission requested he re-notify the abutters about the expanded scope of work before continuing its deliberations. Mr. Silva confirmed he did notify all abutters as requested. He added the existing leaching pit will be abandoned and filled with sand. The septic upgrade to a Title V system is 47 feet from the wetland edge versus the existing pit that is only 39 feet from the wetland. He also said the Board of Health approved the septic upgrade plan that was designed by Kent Healy. Doug West commented the Wetland Protection Act (CMR 310 15.211) states that if a pre-existing septic system is upgraded to a Title V system it is presumed the upgraded system is in compliance with the Act and its wetland regulations. He added he thought the wetland in this situation is more important as it drains into Menemsha Pond and added the Conservation Commission should be more of an activist in required septic systems in sensitive areas to be upgraded from Title V systems to an enhanced, de-nitrifying septic systems. He then asked Mr. Silva if the Board of Health (BOH) considers these wetland factors in issuing septic permits.

Mr. Silva explained the benefits wetlands provide for attenuating nitrogen before it reaches ponds. He added the upgraded system has more ground separation from the water table than the existing septic pit as outlined in the BOH regulations. This further improves the attenuation performance. The health impact of septic systems on humans and the town's water resources is all the BOH is concerned with. He then summarized the resumes of the BOH members and their extensive experience. Other Commissioners commented this owner wants to upgrade an old, pre-existing eye sore structure in Menemsha and its septic system.

After further discussion and with no public comment a motion was made to close the hearing at 10:11 am. The motion was seconded and passed unanimously via a roll call vote. A second motion was made to approve the plan and increased scope of work as presented with the following special conditions: 1. A revised site plan dated 12/14/20 shall be submitted with a footnote that identifies the staging area for the house construction to be where the leaching field is located. The septic system upgrade will be the last phase of the project. 2. Before work begins an on-site conference shall take place among the Conservation Agent (CA) and the contractor(s) to review this Order and approve the installed siltation barriers as shown on the site plan. 3. All construction debris shall be removed from the site daily or stored in a covered dumpster located in the staging area. 4. Any unused excavation spoils from the septic system installation shall be removed from the site daily. The motion was seconded. After brief discussion the motion passed via a roll call vote with six in favor and one opposed (Mr. West).

**PUBLIC MEETING RDA TRACEY SMITH FOR DAVID LEIBMAN; 34 Chilmark Road; AP 1-14:**

Ms. Smith commented on the site visit and reviewed the site plan observations to install a new driveway within the 100 foot buffer zone of an isolated wetland. The closest activity is approximately 18 feet from the wetland edge. She pointed out the existing driveway is

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too steep and the proposed new driveway is located to minimize tree removal and follow the contours of the existing grade. The plan is to restore the grade and re-vegetate the existing driveway. The Commission commented there seems to be an alternative location for the new driveway that is farther from the wetland edge. It also asked how the new driveway will be designed such that the water runoff is directed away from the wetland during rain storms. Mr. Crawford said the new driveway can be graded in a way to have it slope away from the wetland. After much discussion the Commission suggested the applicant return to a future meeting after considering a new location for the driveway that is perhaps out of its jurisdiction or, farther from the wetland as discussed and to add the ground elevation contours to the site plan. Ms. Smith agreed and requested the discussion be continued at the Commission's March 16, 2021 meeting at 9:00 am. A motion was made and seconded to accept the request. The motion passed unanimously with seven in favor via a roll call vote.

**CERTIFICATE OF COMPLIANCE SE 12 – 171; WENDY WELDON; 18 Austin Pasture Way; AP 35-2:** Chuck H. explained an Order was issued in 1992 to install a walking path in a wetland buffer zone. He recommended the project is in full compliance and to issue the Certificate. A motion was made and seconded to accept the report and issue the Certificate of Compliance as recommended. With no discussion the motion passed with seven in favor via a roll call vote.

**CERTIFICATE OF COMPLIANCE SE 12 – 356; WENDY WELDON; 18 Austin Pasture Way; AP 35-2:** Chuck H. also explained this Order was issued in 1999 to build a garage, workshop and install a well in wetland buffer zone. He recommended issuing the Certificate as being in full compliance. A motion was made to accept the report and issue the Certificate accordingly. The motion was seconded and passed unanimously with seven in favor via a roll call vote.

**ADMINISTRATION:**

The draft 2/2/21 meeting minutes were reviewed. A motion was made and seconded to approve the minutes as presented. A roll call vote passed the minutes by consensus.

The next zoom meeting will be 3/2/21 @ 9:00 am.

With no further business to discuss the meeting adjourned at 10:15 AM.

Respectfully submitted by Chuck Hodgkinson, C.A.S.