



Meeting Minutes - Chilmark Conservation Commission
January 19, 2023 (9 am) via Zoom

Commissioners present: Candy Shweder (Chair), Sandy Broyard, Chris Murphy,
Russell Maloney, Pam Goff, Sarah Khedouri, Joan Malkin

Staff: Kara Shemeth (Agent)

Public in attendance: Steve Labranch, Betty & Rod Farrow, Kathy Coe, Susan
Mottau, Reid Silva, Gary Mottau

Continued from 1/5- Request for Determination of Applicability (site Visit 1/3/23)

Applicant: Mike H. Lynch

Address: 1 Lookout Place (AP 19-26)

Project: Applicant is seeking permission construct and maintain a stone wall along a property line that extends into the 100' buffer zone of a wetland

Note: Sandy recused herself as an abutter

Documents shared: site plan

Reid Silva reviewed the site plan and noted that there was a wetland and an intermittent drainage on site. Mr. Lynch is proposing to build a stone wall along his property line. There is a path along a paved road that leads to a Sheriff's Meadow property. Reid noted that the wetland shown on the plan flows intermittently through the property. He explained that wetlands are defined by 50% of the vegetation defined as wetland vegetation, in lieu of vegetation, the hydric soils are examined. In this case, there is an area where water has been seen flowing has neither wetland vegetation nor hydric soils which led Reid to deem it an intermittent stream and therefore not a resource as defined by the WPA or the Chilmark Wetland Protection bylaws.

The applicant would like to go right to his corner despite Reid advising a 25' setback might be better. The line of the wall would be 2' stripped then filled with gravel and then dry laid.

Commissioner Comments: Commissioners noted that at the site visit there was a 3' stream. Reid noted that the resource associated with an intermittent stream would be the bank and there is no discernible bank here. These streams flow so quickly and the water doesn't stay so there is no time for wetland vegetation to be established.

Commissioners felt that a stone wall in the buffer zone is cosmetic and unnecessary and should stay out of the buffer. Others felt it should be 25' from the edge of wetlands.

Commissioners asked that Reid submit the wetlands report done for the property to be on file with the Conservation Office.

Public Comment: Gary Mottau, an abutter noted that there is significant runoff from the Sheriff's Meadow property and this property washing through the road. He asked about the soils and Reid reviewed what they had found during their assessment of the property, finding mostly glacial till.

Sandy, as an abutter, asked about the difference between Doug Cooper's previous flagging of the wetlands and the current flagging. She noted that the intermittent stream goes onto her property and it has created a bank on her lot.

[Reid Silva](#) explained that Doug Cooper had flagged it based on where he saw water after a heavy rain. He and Reid discussed the flagging and it was noted that there had been no wetland vegetation cataloged, Cooper Environmental did not have availability in their schedule to go back out and suggested that Reid have Ryan do the cataloging, hence the different results, one with just water and the second, by cataloging the vegetation.

There was further discussion about conditioning the negative finding to require no clearing in the buffer and for the applicant to return to the Commission prior to building to address the drainage issues and propose mitigation if needed.

Action: A motion was made, and seconded, find a negative determination with the following conditions:

- No stone wall closer than 25' from wetlands
- Allow Agent to require siltation fencing if needed
- No clearing in the buffer
- VLS to send updated plan showing the 25' setback for the wall

Passes unanimously via roll call vote of eligible members (Sandy and Joan abstaining)

Discussion Items:

- **MacIssac modification**

Reid showed the site plan that had been approved and the minor modification to the driveway that had also been approved. This time, Reid is asking to modify the parking area to accommodate an additional vehicle rather than just being a turn around and to add a circular portion in front of the house rather than a pull aside. The proposed changes wouldn't require any additional grading. The previous request wasn't approved as it had retaining walls and additional grading.

Action: A motion was made, and seconded to find the changes de minimus.
Passed unanimously via roll call vote

Action: A motion was made, and seconded, to approve the changes as presented.
Passed unanimously via roll call vote

- **Sica Fines**

The Chair and the Agent met and reviewed the 4 resource areas that were involved in the clearing violation. They reviewed the criteria that had been compiled regarding fines and felt that the two below fit this particular violation.

The actual potential impact on the environment

Whether the applicant took steps to stop the violations

As a starting off point for the discussion they proposed \$1000/ resource area per criteria violated, which would be \$8000.

Commissioners noted that the applicant had previously received an Order of Conditions for the 4' path so they were aware of the procedures.

Reid Silva spoke to the equity between this violation's fines and the Slavin fines.

Action: A motion was made to issue the fines as presented.
It was not seconded.

There was discussion regarding the fine structure, some Commissioners felt the \$8000 was too much but that it should be nominal considering how much of the buffer zone was cleared. It was noted that, had the applicant come to the Commission, they likely would have approved something similar to what was done and they should have known better.

Action: A motion was made, and seconded, to issue a fine for \$2000, \$1000 for each criteria violated.
Passed unanimously via roll call vote

- **15 Nickerson Farm Lane – herbicide request – Wilkenson**

Steve Labranch from Wilkenson explained the property, a Certificate of Compliance had been issued in 2018 and they had been working on the ongoing conditions regarding twice annual mowing and invasive species removal by hand. Steve noted that they have had trouble with two invasives (Japanese miscanthus grass and Mugwort) which has prompted this request to use herbicides once a year. He noted that it would all be in the upland area and not in the resource area. All their workers are State licensed and it would be hand done. Glyphosate was proposed as the herbicide but Commissioners did not care

for that, there are currently 10-12 stands of Miscanthis and the neighbors Miscanthis is coming onto the property.

Action: A motion was made and seconded to send the neighbor a letter to ask that they address the invasives on their property, to allow additional cutting rather than the currently allowed 2x, to see if that helps and allow selective mowing and to deny the application of herbicides without prejudice.
Passed unanimously via roll call vote

- **Squibnocket emergency revetment repair**

The Agent gave a report. She had been contacted by Jay Walsh and met with Jay, Matt Merry, and Bill Rossi on site. They were inquiring about adding boulders to the existing stones just past the end of the Squibnocket bridge. It is 70' from the electric pedestal and Kara advised that at that distance it would be a very difficult ask for an emergency order as 70' doesn't constitute an emergency according to the DEP or the bylaws.

Commissioners stated that any work would require a NOI and they would likely need to engage a coastal engineering firm. The pros and cons of the existing stones were discussed and the disappointment in the town's violation of the initial Order by paving the parking lot was noted.

Unanticipated Items: Kara updated the Commissioners on her upcoming surgery and Russell announced that he will be running for the Select Board.

With nothing further to discuss, the meeting was adjourned at approximately 11:05 am

Respectfully Submitted by kara shemeth, Conservation Agent
Minutes to be approved at 7/20/23 Conservation Commission Meeting