

## Conservation Commission Minutes 10/18/17

FINAL

Present for the Conservation Commission and attending the meeting were: Candy Shweder, Chairman, Joan Malkin, Vice Chairman, Sandy Broyard, Pam Goff, Bob Hungerford, Russell Maloney, Chris Murphy, Maureen Eisner and Chuck Hodgkinson. Reid Silva, George Sourati, Paul and Marie Elias, Bob Kenney, Janet Weidner, Peter Cook and Robin Hyde also attended.

The meeting came to order at 12:30 PM. Ms. Shweder appointed Alternate Commissioner Russell Maloney as a voting member for the day's agenda.

**NOISE 12 - 800; GEORGE SOURATI FOR ROBERT R. AND FRANCES A. LABAREE, TRUSTEES; Menemsha Inn Rd.; AP 21-38.2:** Ms. Shweder opened the public hearing at 12:40 PM. Mr. Sourati presented a site plan dated 9/14/17 to construct and maintain a year-round stairway down the coastal bank to Vineyard Sound. A four foot wide path is also proposed from the designated house building site to the stairs. The construction of a driveway and the installation of a water well with related trenching and underground utilities to serve a single-family residence the location of which will be outside the Riverfront Area are also proposed. The stairs and path activity will disturb approximately 25 sq. ft. of beach, 6 feet of coastal bank, 60 sq. ft. of land subject to coastal storm flowage and the 100 foot- buffer zone of the coastal bank. The driveway and utilities work will disturb 1800 sq. ft. of the second 100 feet of the Riverfront Area. The well, driveway and utilities work will also be done within the 100-foot buffer zone of a Bordering Vegetated Wetland. The closest activity is 35 feet from the wetland edge. All of the work is within NHESP jurisdiction.

The Commission discussed the site visit and asked how the stairs will be supported. Mr. Sourati said they will have fixed wooden posts driven into the coastal bank. A letter from Attorney Diane Tillotson was read for the record. Abutter Paul Elias asked if the hearing can be postponed until the property rights issue between the applicant and he can be resolved. The Commission asked if this application has any activity on the parcel in question (Map 21 Lot 37). Mr. Elias said it does not. The Commission explained a request for a postponement has not yet been requested by the applicant. An abutter has the right to comment on an application as it relates to the project's impact on the resources that are within the Commission's jurisdiction. An abutter may not be granted a request to postpone the hearing without the applicant's agreement. Mr. Sourati said he is not seeking a postponement of the proceedings. After much discussion and with no further comment from the public a motion was made to close the hearing at

1:01 PM. The motion was seconded and unanimously approved. A subsequent motion was made to approve the plan as presented with the following special conditions:

- Only hand tools shall be used to install the beach stairway in the location shown on the site plan.
- There shall be no vehicular driving or vehicular access within the 100-foot buffer zone of the coastal bank.
- The existing, cleared area within the 100-foot buffer zone of the coastal bank may be used as a work staging area for the beach stairway.
- The pieces of the beach stairs shall be labeled with Map 21 Lot 38.2 so they can be identified if a storm damages or destroys the stairway.
- The brush underneath the beach stairway shall be pruned to a minimum height of 18 inches in all sections except the small area near the bottom of the stairway. The brush may be pruned to a minimum height of 7 inches in the small area.
- The stairs may be maintained provided the maintenance plans are reviewed with the Conservation Agent before work begins.
- 310 CMR 10.30(3) of the Wetlands Regulations, promulgated under Massachusetts General Laws Chapter 131, Section 40, and Section 2.05 (4C) of the Chilmark Conservation Commission Rules & Regulations, promulgated under the Chilmark Wetlands Protection Bylaws, requires that no coastal engineering structure, such as a bulkhead, revetment, or seawall shall be permitted on a bank, or on an eroding bank, at any time in the future to protect the project allowed by this Order of Conditions.
- An on site meeting shall take place among the contractor(s) and the Conservation Agent to review this Order before work begins.
- The hay bales and silt fencing for the driveway, well and utilities shall be installed and approved by the Conservation Agent before work begins.
- The lower five feet of the beach stair shall not be connected to the upper section of the stairs to reduce damage to the coastal bank from significant storm impacts.

The motion was seconded and with no further discussion passed unanimously with eight in favor.

**NOI SE 12 - 801; GEORGE SOURATI FOR HELENA PRICE; 26 Hammett Rd.; AP 8-2:** Ms. Shweder opened the public hearing at 1:07 PM. Mr. Sourati explained the project was originally permitted in 1999 as SE 12 – 362. The Order was subsequently extended in 2002 and 2005 and has now expired. He then reviewed a site plan dated 9/25/17 to construct a 10-foot wide, 1,000 foot-long driveway from Hammett Road to a planned building site. The driveway will cross two intermittent and seasonal drainage swales. He added that Rusty Walton originally flagged the wetlands in 1999 and Doug Cooper subsequently re-flagged the wetlands and added Mr. Cooper’s delineation is more conservative than Mr. Walton’s. The Commission discussed the two proposed drainage culverts which are intended to provide a natural wildlife corridor that will provide unobstructed passage. Chuck H. read a hand-written note from abutter Emily Bramhall for the record. With no public comment a motion was made to close the hearing at 1:18 PM. The motion was seconded and unanimously approved. A second motion was made to approve the plan as presented with the following conditions: 1. The lower culvert closest to the larger wetland shall not be less than 18 inches wide and 12 inches high. 2. Hay bales and silt fencing shall be installed between the driveway and the larger wetland and approved by the Conservation Agent before work begins. The motion was seconded and passed unanimously with eight in favor.

**NOI SE 12 - 802; REID SILVA FOR POINT INNER TRUST, LLC; 20, 21 Point Inner Way; AP 33-98, 99, 101:** Ms. Shweder opened the public hearing at 1:20 PM. Mr. Silva summarized the site plan dated 9/19/17 to construct a fence for a built-in swimming pool, patio and associated landscaping within the buffer zones of a Bordering Vegetated Wetland and the Top of a Coastal Bank for Menemsha Pond. The closest activity is 75 feet from the wetland edge and 86 feet from the top of the bank. He added this is the only possible location for the pool that meets zoning regulations. The Commission said it is not concerned with zoning regulations, just resource impact of the project. With no public comment a motion was made to close the hearing at 1:25 PM. The motion was seconded and unanimously approved. A motion was made to approve the plan provided the fence is relocated to within ten feet of the pool. The motion was not seconded. A second motion was made to approve the plan as presented with the following conditions: 1. Hay bales and silt fencing shall be installed between the work area and wetland and approved by the Conservation Agent before work begins. 2. The excavation spoils shall be removed from the site daily. 3. The applicant shall return to the Commission should any changes be made by the Board of Appeals that also changes the activity and/or impacts in the buffer zone. The motion was seconded. In discussion several alternative locations for the pool fence were debated and the Commission agreed the proposal as presented will not impair the performance of the buffer zone. The motion came to a vote and passed with seven in favor and one opposed (Mr. Murphy).

**PLANNING BOARD DISCUSSION:** Commissioner Malkin stepped into the audience because she is one of the planning board members who are working on this issue. Ms. Weidner thanked the Commission for its time and explained the planning board is floating several ideas on how to improve the summer traffic congestion on Basin Road in Menemsha. She then reviewed a sketch of a plan that would re-route a road around and behind the existing comfort station. This would facilitate a radius that would allow a bus to perform a U-Turn from the north end of the comfort station--rather than traveling through the beach parking lot. The Commission discussed several alternatives to the proposed bus route with the goal of reducing incursion into the filled salt marsh. Ms. Weidner also mentioned they are considering the installation of fixed lally posts to replace the existing concrete curbs that seem to get pushed into the dune as the summer season progresses. The Commission concluded this is a filled salt marsh and said it cannot comment on a theoretical plan without having the resource areas and buffer zones accurately delineated. It will also need a specific explanation of what resources will be disturbed and which will be altered and to what degree. Ms. Weidner thanked the Commission again for its time.

**ADMINISTRATION:**

The draft October 4, 2017 meeting minutes were reviewed and approved as presented with six in favor and two abstentions (Commissioners Murphy and Malkin).

**Signatures:**

Order of Conditions Labaree; SE 12 - 800; AP 21-38.2.  
Order of Conditions Price; SE 12 - 801; AP 8-2.  
Order of Conditions Point Inner Trust; SE 12 - 802; AP 33-98, 99, 101.

The next meeting will be Wednesday, November 1 @ 12:30 PM.

With no further business to discuss the meeting adjourned at 2:15 PM.

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