

Conservation Commission Minutes 12/05/18

FINAL

Present for the Conservation Commission and attending the meeting were: Joan Malkin, Chairman, Bob Hungerford, Vice Chairman, Candy Shweder, Pam Goff, Chris Murphy, Sandy Broyard, and Chuck Hodgkinson. Reid Silva, George Sourati, Jane and Richard Wilkie, Fran and Phil Demurs, Kathy Coe, John O'Keefe, Susan and Gary Mottau, Warren and Nan Doty, Moira Fitzgerald, Kathleen Tilton, George Ahl and Lawrence Clany also attended. Maureen Eisner and Russell Maloney did not attend.

The meeting came to order at 12:30 PM.

FOLLOW UP DISCUSSION FROM 9/5/18 JANE WILKIE; AMENDED SE 12 - 481; DOCTOR'S CREEK AND CHILMARK POND PHRAGMITES REMOVAL: Discussion regarding the Commission's October 2017 decision to revoke this Order of Conditions issued in 2005 and Amended in 2007 to increase the area of work. The project was to eradicate Phragmites along Dr's. Creek and the south shore of Chilmark Pond opposite Jane's property. The "muddy glove" application of Glyphosate was used as part of the eradication procedure.

The Order was rescinded for non-compliance with its special conditions # 20 (review the maintenance plan with the Commission or its designee before work begins and the subsequent condition imposed by the NHESP to provide pre and post treatment reports on the vitality of a state-listed rare species – Salt Pond Pennywort (*Hydrocotyle verticillata*) and Sea-Beach Knotweed (*polygonum glaucum*).

Ms. Malkin started by saying the Commission did not revoke the Order for this project properly. A public hearing and formal notice to the applicant and abutters are required. There was much discussion about the original Notice of Intent and Order where Ms. Wilkie was representing the applicant listed the Chilmark Pond Association. Two emails from the current President of the Chilmark Pond Association (10/11/18 and 12/3/18) were read for the record. They essentially said there is no formal record of the Association agreeing to be the applicant and that the Pond Association no longer wants work done under this Order and in its name. Ms. Goff added that the project has been very successful with the controlled use of Rodeo and thought the Phragmites eradication has many benefits to the pond resource and habitat. She cited how the rare species Salt Pond Pennywort has flourished along the north shore of the Pond. After additional discussion the Commission agreed the best way to address the issue is to ask the applicant – Chilmark Pond Association whether it would consider requesting a Certificate of Compliance declaring the project finished along with the desire to revoke the condition allowing for on-going maintenance of the work provided the conditions are continually met. If desired, Ms. Wilkie would then be able to submit a Notice of Intent as the applicant for consideration to either continue Phragmites control using Glyphosate or seek approval for some other work to improve pond health. The Commission emphasized that written letters of consent would be required from each property owner upon which work is proposed.

A subsequent motion was made to have Chuck H. contact the President of the Chilmark Pond Association to initiate the process. The motion was seconded and approved with five in favor and one opposed (Ms. Goff).

NOI SE 12 - 830; REID SILVA FOR THOMAS PORTER; 82 Menemsha Crossroad; AP 26-34: Ms. Malkin opened the public hearing at 1:02 PM. Mr. Silva reviewed a site plan dated 11/15/18 to build an addition, porch and two decks to an existing dwelling that is located within the 100-foot buffer zone of a Swamp Wetland. An existing porch in the buffer zone will be removed. The closest activity is 44 feet from the wetland edge. A total additional footprint of 680 sq. ft. is proposed—462 sq. ft. for the enclosed space and porch and 218 sq. ft. of new decks. The total area of the house and additions is 1850 sq. ft. He added the Swamp Wetland drains to the north and not into a coastal pond. A basement foundation is proposed for the addition.

After discussion about the site visit observations and with no public comment a motion was made to close the hearing at 1:18 PM. The motion was seconded and unanimously approved. The Commission discussed how this is another example of incremental development in a buffer zone. They also asked if a more accurate site plan could be provided for the specific footprint dimensions. Mr. Silva agreed. A subsequent additional motion was made to re-open the hearing. The motion was seconded. In discussion the Commission thought it would help if time is provided for the applicant to re-consider and prepare a new site plan. The motion came to a vote and passed unanimously with six in favor. Mr. Silva requested the hearing be continued to January 16, 2019 @ 12:30 PM to consider alternatives with less encroachment in the buffer zone. A motion was made and seconded to approve the request. The motion passed unanimously with six in favor.

NOI SE 12 - 829; GEORGE SOURATI FOR CHRISTOPHER AND YVETTE QUINSON; 7 Flanders Lane; AP 27.1-202:

Ms. Malkin opened the public hearing at 1:25 PM. Mr. Sourati reviewed a site plan dated 12/4/18 to re-build an existing 107 sq. ft. screened porch as a four-season porch and build a 140 sq. ft. mud room and stairs addition to the existing dwelling that is located within the 100-foot buffer zone of a Bordering Vegetated Wetland and within the Riverfront Area. The closest activity is 43 feet from the wetland edge, 49 feet from the river with 140 sq. ft. of additional disturbance within the second 100-foot section of the Riverfront Area. The mud room, bath addition is 57 feet and 61 feet from the wetland and river respectively. A letter from the owners was read for the record. After brief discussion of the site visit and with no public comment a motion was made to close the hearing at 1:39 PM. The motion was seconded and unanimously approved. The Commission asked if the porch replacement could be supported with piers instead of a crawl-space foundation. This would significantly reduce the disturbance in the buffer.

Mr. Sourati agreed. The Commission thought the 10' X 14' mud room is a modest new addition of space. A motion was made to approve the plan as presented with the following special conditions: 1. The reconstructed porch shall have a pier foundation. 2. The siltation barriers shall be installed and approved by the Conservation Agent (CA) before work begins. 3. The excess excavation spoils for the mud room-bath shall be removed from the site daily. 4. All debris shall be stored in a covered dumpster located in the parking area or removed from the site daily. 5. A pre-construction conference shall take place among the CA and contractor(s) to review this Order. The motion was seconded and with no further discussion passed unanimously with six in favor.

NOI SE 12 - ???; REID SILVA FOR GEORGE AHL; 24 Bassett Place Rd.; AP 24-52:

Ms. Malkin opened the public hearing at 1:44 PM. Chuck H. pointed out a DEP file number has not yet been received. Mr. Silva introduced the new owner and reviewed a site plan dated 11/16/18 to replace two support beams running underneath the existing dwelling and build a four-foot wide deck and walkway. All work will be done by hand. The work is on land subject to Coastal Storm Flowage and abuts a salt marsh on Chilmark Pond. He explained the proposed deck addition could be supported with three posts set two feet from the house. The Commission discussed how this house was built in its location many years ago. The Commission debated the additional deck so close to the marsh. Mr. Ahl asked why he is being punished by the Commission. The Chair explained he is not being punished at all. It is trying to find a way to minimize additional intrusion into this sensitive resource as dictated in the bylaw. After further discussion about re-configuring the deck and with no further public comment a motion was made to close the hearing at 2:05 PM. The motion was seconded and unanimously approved. A subsequent motion was made to approve the plan provided there is no significant comment from the DEP with the following special conditions: 1. The applicant shall return to the Commission with a revised site plan that reflects the deck changes discussed to reduce the area of total deck over the salt marsh before any work begins. 2. The three piles and cross member that are located 10 feet from the south side of the house shall be removed. 3. All work will be done by hand. 4. All debris shall be stored in a covered dumpster located in the dry parking area or removed from the site daily. The motion was seconded and passed unanimously with six in favor.

NOI SE 12 - ???; REID SILVA FOR WARREN AND NAN DOTY; 62 Menemsha Crossroad; AP 26-105:

Commissioner Murphy recused himself because he is related to the owners. Ms. Malkin opened the public hearing at 2:08 PM. Chuck H. said the DEP has not yet issued a file number for this NOI either. Mr. Silva reviewed the site plan dated 11/19/18 to construct a single-family residence, driveway, parking area, install utilities, well, water line and a gray water septic system. The residence, septic, parking and a portion of the water line is in the second 100 feet of the Riverfront Area (8,020 sq. ft. of disturbance). The well, water line, utilities and part of the driveway are in the first 100 feet of the Riverfront Zone (3,900 sq. ft. of disturbance) and within 100 feet of a Bordering Vegetated Wetland and creek. The closest activity is 30 feet from the wetland edge. He mentioned the house and septic are outside the 100-foot wetland buffer zones. He said the septic will be for grey water only and the house will have composting toilets. Soil tests indicated the wetlands drainage is made of packed glacial till. The Commission asked where the wetlands drain. Mr. Silva said the wetlands drain to Menemsha Pond and the stream connects with Mill Brook which flows into upper Chilmark Pond. The Commission asked the applicant to add the locations for siltation barriers for the work and how the well cuttings will be contained. They also asked for construction fencing to define the limits of work. Mr. Silva agreed. With no public comment a motion was made to close the hearing at 2:17 PM. The motion was seconded and unanimously approved. A second motion was made to approve the plan provided there are no significant comments from the DEP and with the following special conditions: 1. A revised site plan shall be provided showing the silt fencing and limit of work construction fencing locations before work begins. 2. The installed siltation barriers and construction fencing shall be approved by the Conservation Agent (CA) before any work begins. 3. These temporary fences shall be kept in good condition throughout construction and removed after any re-seeding has been established. 4. All excess excavation spoils shall be removed from the site daily. The motion was seconded and passed unanimously with five in favor.

DISCUSSION KATHLEEN TILTON; 10 Ebens Lane; AP 13-21:

Ms. Tilton explained they would like to build a 24' X 36' (854 sq. ft.) horse barn on land that is under Conservation Restriction (CR) on their property. The Commission asked where the barn will be sited and a rough drawing was made on a visual of the site. The Commission reviewed Section III B.7. of the CR regarding "Reserved Rights and Exceptions to Otherwise Prohibited Acts and Uses". This section was amended in November 2015 to allow the placement of ancillary structures for animal husbandry provided the footprint(s) do not exceed an aggregate of 2,000 sq. ft. The Commission agreed this is an allowable use. A motion was made to allow the construction of the horse barn as described provided the owners return with a site plan showing the precise location of the barn before work begins. The motion was seconded and unanimously approved.

ADMINISTRATION:

The draft October 3, 2018 meeting minutes were reviewed and approved as presented by consensus. The draft November 7, 2018 meeting minutes were also reviewed and approved as amended by consensus.

The FY 2020 budget was reviewed and approved by consensus.

Signatures:

Order of Conditions SE 12 – 829; Quinson AP 27.1-202.

Order of Conditions SE 12 – ???; Doty; AP 26-105.

Order of Conditions SE 12 – ???; Ahl; AP 24-52.

The next meeting will be Wednesday, December 19, 2018 @ 12:30 PM.

With no further business to discuss the meeting adjourned at 2:30 PM.

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