

## Conservation Commission Minutes 04/03/19

FINAL

Present for the Conservation Commission and attending the meeting were: Joan Malkin, Chairman, Pam Goff, Maureen Eisner, Russell Maloney, Sandy Broyard and Chuck Hodgkinson. Steve Yaffe, Jim Malkin and Joe Chapman also attended. Candy Shweder, Chris Murphy and Bob Hungerford did not attend.

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

**NOISE 12 – 839; REID SILVA FOR KEVIN AND ELIZABETH OLIVER; 139 Tea Lane; Map 3 Lot 1 (Trina's property):**

Chuck H. read a request to postpone this hearing to April 17, 2019 @ 12:30 PM when more of the Commissioners will be in attendance. A motion was made and seconded to grant the request. With no discussion the motion passed unanimously with five in favor. The application is to redevelop an existing lot. A pre-existing, 3-bedroom 788 sq. ft. house located within a wetland will be removed and the area restored. An existing 375 sq. ft. studio located within the 100-foot buffer zones of a wetland and man-made pond will be removed. An existing 1,400 sq. ft. driveway located in a buffer zone and a wetland will be abandoned and re-vegetated. A total of 2,563 sq. ft. of structure and driveway will be removed from the wetland and wetland buffer zone. A new 3-bedroom house, garage and sunroom with a 1,600 sq. ft. footprint are proposed and located within the 100-foot buffer zones of the wetland and pond. The closest sections of this structure are 13 feet from the wetland edge and 50 feet from the pond. A new well and a high-capacity infiltrator bed septic system are also proposed. The well is in the buffer zone and 14 feet from the wetland edge. The leach field is in the buffer zone and 53 feet from the wetland edge.

**CERTIFICATE OF COMPLIANCE AMENDED SE 12- 481; CHILMARK POND ASSOCIATION; Phragmites control; AP 24 - 129, 130, 205, 206, 211, 213, 224; AP 28-1:**

Chuck H. explained an amended Order was issued in 2007 to control Phragmites in Chilmark Pond. The request for a Certificate is from Amy Salzman, President of the Chilmark Pond Association and expressly declares the work complete with no further work or maintenance required. It subsequently requests the elimination of Special Condition # 20 that provides for on-going maintenance with conditional compliance measures. A motion was made and seconded to issue the Certificate of Compliance in accordance with the request. The motion passed with four in favor and one opposed (Ms. Goff).

**STEVE YAFFE DISCUSSION AMENDED SE 12 – 760; CESTAR; AP 32-40:** Chuck H. explained a Certificate of Compliance was issued in October 2018 with the on-going condition prohibiting the use of fertilizers, pesticides or fungicides. A site visit on March 26, 2019 indicated significant additional clearing and the reconstruction of a stone retaining wall took place after issuing the Certificate. A significant amount of this work is within a Bordering Vegetated Wetland draining into Stonewall Pond, the 100-foot buffer zones of Stonewall Pond, the wetland draining into Stonewall Pond and a perennial stream draining into Stonewall Pond. He shared several photos taken on March 26. Steve Yaffe said he is responsible for the work and apologized. He said he is a 20-year member of the Aquinnah Conservation Commission and succumbed to pressure from the owner—which he regrets. The Commission decided to briefly adjourn the meeting to make a site visit and then return to continue the meeting and discussion. They left at 1:10 PM and returned at 1:40 PM.

Upon returning the Commission thought the infractions deserve a fine and Enforcement Order. After much discussion the following observations and actions were agreed.

A significant area of a wetlands draining into a coastal pond; a portion of a coastal bank and an area within the 100-foot buffer zone of a perennial stream flowing into a coastal pond were mowed without an Order of Conditions or Negative Determination of Applicability. The house is completely surrounded by wetlands draining into a coastal pond.

**Site Visit Observations**

The property includes a significant area of a wetlands draining into a coastal pond; a portion of a coastal bank and an area within the 100-foot buffer zone of a perennial stream flowing into a coastal pond. The house is completely surrounded by wetlands draining into a coastal pond.

- The mowed wetland areas had visible, standing water and a significant number of skunk cabbage sprouts (a wetland indicator species).

- Additional mowed clearing was performed near the west property line that abuts a perennial stream flowing into a coastal pond and an additional section north of the house. Both areas are within 100 feet of a wetland draining into a coastal pond.
- Tree topping of a number of trees on eastern edge of property which lies in the buffer zone of a coastal pond.

Upon returning and as a result of discussion, the Commission thought the infractions deserve a fine and Enforcement Order. The Commission determined that this action was appropriate in view of the fact that the property owner was advised by Jaffe that the work was not permitted under the Wetlands Protection Act without an Order of Conditions or Negative Determination of Applicability Order but that the owner nevertheless authorized the work to proceed, that the alteration of the wetland and buffer zones was extensive, because of the significant deterrence effect of such action and because the Commission felt that the action was in the public interest. After much discussion the following actions were agreed.

#### Remedial Actions

A subsequent motion was made to have Chuck H. issue an Enforcement Order as follows:

- As outlined in Part VI, Sections 6.01, 6.02, 6.03, 6.05, 6.06, 6.07-1, 6.08 and 6.092B of the Chilmark Wetland Protection Bylaws the owner shall be fined \$100/day from the date when the unpermitted work was performed to April 3, 2019. Mr. Yaffe will confirm the work start date.

The Commission agreed to extend the fine payment deadline as outlined in Section 6.04 of the Chilmark Wetland Protection Bylaws from 21 days (April 24) to no later than May 1, 2019.

A remedial landscape plan using native species for the previously described mowed resource areas shall be prepared by a reputable wetland vegetation specialist for review at a scheduled April 30, 2019 site visit @ 12:30 PM and the Conservation Commission public meeting on Wednesday, May 1, 2019 at 12:30 PM in the second floor conference room at Chilmark Town Hall. This plan shall include a specific planting plan to restore the resource areas back to their original state – before being mowed.

The edge of the original lawn areas shall be delineated with 2'X2'X2' field stones and shown on the proposed re-landscaping site plan. This includes the original lawn area on the west side of the house that abuts the perennial stream. The intent is to delineate the mowing and no mowing areas of the site.

- The property owner shall attend the scheduled site visit on April 30<sup>th</sup> and the Conservation Commission public meeting on May 1<sup>st</sup>.

The motion was seconded and after further discussion passed unanimously with five in favor.

#### ADMINISTRATION:

The draft March 20, 2019 meeting minutes were reviewed and approved as presented by consensus.

Signatures:

Certificate of Compliance Amended SE 12 – 481; Chilmark Pond Association; AP 24-129, 130, 205, 206, 211, 213, 224; AP 28-1.

The next meeting will be Wednesday, April 17, 2019 @ 12:30 PM.

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

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