

FINAL

MARION CONSERVATION COMMISSION
MINUTES OF THE REGULAR MEETING HELD ON APRIL 7, 2004

Members Present: Janice M. Mendes, Treasurer
Joel D. Hartley, Member
Norman A. Hills, Associate Member

Members Absent: Robert J. Merlino, Chairman
Jeffrey W. Oakes, Vice Chairman
Sherman E. Briggs, Jr., Recording Secretary
Horace S. Kenney, Jr., Associate Member

Secretary: Diane R. Drake

Others Present: James & Marie Davidian, David Davignon, Phillip Jagoda, Michael Moore, Scott Soares, Scott Cowell, Kevin Snow, Lars Olson, Mr. & Mrs. Marinus Vander Pol Jr.

Meeting convened at 7:10 PM Wednesday, April 7, 2004 in the main conference room of the Marion Town House, 2 Spring Street, Marion, Massachusetts. Site inspections were held on Saturday, April 3, 2004 by J. Mendes, J. Hartley and N. Hills.

7:10 PM **JAMES & MARIE T. DAVIDIAN** - NOI (SE41-1005) to construct a seasonal floating dock system (consisting of an 8' x 20' float with two pilings, a 45'-long gangway, and an 8' x 6' landing pad) at 21 East Avenue, Planting Island (continued). Mr. and Mrs. Davidian were present with their representative, David Davignon of N. Douglas Schneider & Associates, Inc. D. Davignon submitted a revised plan eliminating the two pilings, due to the Building Commissioner's interpretation of the definition of the word "pier" – the Building Commissioner said if there are piles, then it is a pier, but if there aren't any piles, then it is not a pier and will not need to be reviewed by the Zoning Board of Appeals and the Planning Board. Kevin Snow, Shellfish Officer, joined the meeting. J. Hartley said he would prefer the float to use stops on pilings, rather than legs, but the Planning Board's definition of pier is prohibiting this possibility. K. Snow said the regulations clearly state the Applicant must get all other permits before submitting a Notice of Intent; D. Davignon explained that he cannot get the other permits first because the Order of Conditions must accompany the other filings. D. Davignon submitted a letter from Waterways approving the original project, and a letter from the Building Commissioner stating this project is not considered to be a pier. D. Davignon said the second and third

plans do not change anything about supporting the float, just the means to keep it from moving, which the helixes will do. J. Mendes moved to close the hearing; N. Hills seconded; voted unanimously.

7:32 PM **THE KITTANSETT CLUB** – NOI (SE41-1003) to repave a parking lot at 11 Point Road, and add crushed stone to an adjacent parking area of lawn and phragmites (continued). Phillip Jagoda of CLE Engineering, Inc. represented Kittansett and submitted plans revised to show the proposed trench/swale in the grassy area that is to be covered with stone. The 435'-long trench will be 4' wide, 1' deep, and will be filled with stone. J. Mendes moved to close the hearing; N. Hills seconded; voted unanimously.

7:37 PM **DR. CHARLES FATHALLAH** – Appointment for discussion to relocate the leaching field from near the coastal bank to near Moorings Road (SE41-876). David Davignon of N. Douglas Schneider & Associates, Inc. represented Dr. Fathallah and asked the Commission to approve this change by letter, rather than requiring an Amended Order of Conditions. J. Mendes moved to issue a letter accepting the revised plan; N. Hills seconded; voted unanimously.

Dr. Martha Stark has requested a three-year Extension Permit for her Order of Conditions SE41-900 to rebuild her guest apartment at 4 West Avenue, Planting Island. The work is complete, but the Zoning Board of Appeals is reviewing the project and may require changes. J. Mendes moved to issue a three-year Extension Permit; N. Hills seconded; voted unanimously.

7:47 PM **LARS. V. OLSON** – RFD (41D-1180) to tear down and remove an existing barn at One Shore Drive, and to grade and seed the area of the barn. Lars Olson was present and said the edge of grading will be at least 20' from the Bordering Vegetated Wetland line, and he will place haybales or install a silt fence between the wetlands and the barn until the area is stabilized. J. Mendes moved to close the hearing; N. Hills seconded; voted unanimously. J. Hartley moved to issue a Conditional Negative Determination for Boxes 3 and 5 with conditions requiring a silt fence/haybales, and prohibiting any work within 15' of the B.V.W. line; N. Hills seconded; voted unanimously.

7:50 PM **TABOR ACADEMY** – RFD (41D-1181) to remove rocks and boulders alongside the road at 255 Front Street. Marinus Vander Pol, Jr. represented Tabor and described the project. J. Hartley asked if there is a proposal to construct a path/sidewalk where the rocks are; M. Vander Pol said that idea has been discussed, and it is a good idea, but not to be acted on at this time. M. Vander Pol said Robert Zora of the D.P.W. told him those rocks were left there when Front Street was reconstructed several years ago. J. Hartley asked what other work or grading is proposed; M. Vander Pol said all he is asking for at this time is removing most of the rocks which will be used in the riprap of the

new marine sciences building. Michael Moore, the former owner of this property who sold it to Tabor with a conservation restriction in place, was present and asked whether the Sippican Lands Trust, as the holder of the conservation restriction, had been notified of this work; M. Vander Pol said he had not. J. Mendes moved to continue the hearing, with the Applicant's consent, to 8:00 PM April 21, 2004, in order to receive comments from the Lands Trust; N. Hills seconded; voted unanimously. N. Hills said he has a meeting with William Saltonstall of the Lands Trust tomorrow, and will ask for his comments at that time.

8:05 PM **SCOTT COWELL** – NOI (SE41-1006) to construct an aquaculture farm in Sippican Harbor, alongside Ram Island. Scott Cowell was present with Scott Soares of the U.S. Agricultural Department, who is helping S. Cowell with the permitting process for this project. Also present were Shellfish Officer Kevin Snow and Ram Island owner Dr. Michael Moore. S. Cowell explained the project and said a friend of his prepared the plan. J. Hartley asked S. Cowell to submit a revised plan showing the correct location of the Phase One area, which is the only phase that can be addressed/permitted under this filing, and the proposed float. K. Snow said specific G.P.S. location points of this first phase are also required on the plan. M. Moore said he will allow S. Cowell to use an existing Ram Island float for the time being. S. Soares said he has been working with S. Cowell on this project, and explained that although these projects can be reviewed by the local Conservation Commission, Notices of Intent are not usually required. S. Soares said the Division of Marine Fisheries issues the aquaculture license, which is transferable but cannot be sold. A question was raised regarding where the Order of Conditions should be recorded; M. Moore said not on Ram Island. S. Soares said that in some instances, such as this one, Orders of Conditions do not need to be recorded. J. Mendes moved to continue the hearing, with the Applicant's consent, to 8:10 PM April 21, 2004 so that the Applicant can revise the plan to include the requested information; N. Hills seconded; voted unanimously.

The Davidian pier project was discussed v(SE41-1005). Everyone agreed that pilings would be preferable to the system proposed, but due to the Zoning Board of Appeals, this project must be approvable under current Planning Board rules, and will be subject to the Army Corps of Engineers' approval. J. Hartley drafted the Order of Conditions and moved to issue it as written; J. Mendes seconded; voted unanimously.

J. Mendes drafted the Kittansett Club's Order of Conditions (SE41-1003) for work on their parking lots, and moved to issue it as written; N. Hills seconded; voted unanimously.

The Commission discussed Robert Shaw's brush cutting to maintain a water view at 404/406 Point Road. J. Hartley moved to send him a letter asking him to file a Request for a Determination of Applicability for this work; N. Hills seconded; voted unanimously.

The Commission discussed the seawall repair project at the Harbormaster's pavilion at 1 Island Wharf Road (SE41-993). Work appears to greatly exceed what was permitted. N. Hills drafted a memo to the Harbormaster asking him to restore the project to that originally permitted, or request an Amendment to the Order of Conditions to allow the extra work to remain; J. Mendes seconded; voted unanimously.

J. Mendes moved to accept the November 19, 2003 minutes as corrected; J. Hartley seconded; voted unanimously. J. Mendes moved to accept the December 3 and 17, 2003 minutes, the January 7 and 21 minutes, and the February 18, March 3 and 17 minutes as written; J. Hartley seconded; voted unanimously.

Meeting adjourned at 9:45 PM.

Diane R. Drake, Secretary

Approved May 5, 2004