

MARION CONSERVATION COMMISSION

MINUTES OF THE REGULAR MEETING HELD ON August 24, 2016

Members Present: Cynthia Callow, Chairman
Norman A. Hills, Clerk
Joel D. Hartley, Member
Kristen Saint Don, Member
Shaun Walsh, Associate

Members Absent: Jeffrey J. Doubrava, Vice Chairman
Lawrence B. Dorman, Associate

Admin. Assistant: Donna Hemphill

Others Present: Leslie Kuo; Pam Riffin; Jim Manganello, LEC; Bob & Camryn McNamara; Brian Grady, GAF; Tom Lovett; Erlene Belton; John Ludes; Carolyn Mostello, Mass. Fisheries & Wildlife; Nick Dufresne, Farland Corp.; Doug Thackeray; Scott Cowell, BBOC; Paul Kuo

Meeting convened at 7:00 PM on Wednesday, August 24, 2016 in the conference room of the Marion Town House, 2 Spring Street, Marion, Massachusetts. Site visits were held on Saturday, August 20, 2016 by C. Callow and N. Hills. This meeting was televised and video recorded by Old Rochester Community Television (ORCTV), and audio recorded by Town of Marion staff.

7:00 PM **Copper Medal LLC** – follow up to Enforcement Order (EO) to File No. SE 041-1135. Jim Manganello of LEC Environmental was present as was Jack Ludes. J. Manganello addressed the items in the EO said that vegetation is coming back, the brush pile is still in place and the silt fence is in good condition. The BVW still needs to be reestablished. There was a brief discussion regarding the possibility of spreading the brush piles out. The BVW will be reestablished this fall and a progress report will be made at the end of the growing season. Commission members will then do a site inspection. After the inspection a decision will be made about spreading out the brush.

7:05 PM **Robert B. & Jean F. McNamara**, Request for Determination of Applicability (File No. 41D-1620), to construct a 8'2" x 20'6" shed on an existing concrete pad at 19 Shawondasse Road. C. Callow said that the Commission had received emails from abutters and they are part of the file. R. McNamara said that he has a current Determination that allows for moving a shed. He also has an Order of Conditions to raze and reconstruct the dwelling. He said that Building Commissioner Scott Shippey came to

42 the site and he showed him the concrete pad that the new shed will be built on. He was
43 fine with using the concrete pad as the base of the new shed. R. McNamara plans on
44 putting a door in the front and the back of the shed. N. Hills asked about the Order to raze
45 and reconstruct. R. McNamara had applied to the Zoning Board of Appeals and his
46 application to raze and reconstruct was denied. The cottage is now on the market. There
47 was a brief discussion about the Flood Zone that the property is in. Based on the plan
48 submitted it appeared that ½ to ¾ of the structure is in the VE Zone. There was also a
49 discussion regarding the Building Code requirements and the 50% rule for building within a
50 VE Zone. N. Hills asked R. McNamara to provide a copy of the value information that is
51 submitted to the Building Commissioner. He also asked that a printout of materials and the
52 cost of labor be submitted as well. There were no further questions from Commission
53 members. Abutter Pam Riffin, 17 Shawondasse Road, addressed the Commission with her
54 concerns regarding the project. She had sent an email to members expressing her
55 displeasure with the project. This email is part of the file. Tom Cooper, former member of
56 the Zoning Board of Appeals, spoke about the denial and the background of the ZBA filing.
57 He also expressed his concerns about this project. Abutter Erlene Belton, 14 Wianno Road,
58 also had sent an email with her concerns. She stated that she would like the Commission
59 document and clearly state anything that is issued. E. Belton also expressed her concerns
60 about the project. R. McNamara noted that the property recently tied into town sewer. In
61 order to allow time for R. McNamara to supply the requested information, the hearing was
62 continued with the applicant's consent. C. Callow motioned to continue the hearing to
63 Wednesday, September 14, 2016 at 7:15pm; N. Hills seconded; voted unanimously.

64
65 7:10 PM (7:35pm) **James Kiehl**, Request for Determination of Applicability (File No.
66 41D-1620), to construct a 1,170 sf garage addition attached to the rear of the existing
67 house at 15 West Avenue. Nick Dufresne of Farland Corp was present to represent the
68 home owner. N. Dufresne described the project. He said that the majority of the work is
69 outside of the flood zone. Only the gravel driveway is within Flood Zone AE 16. N. Hills said
70 that members did a site visit on Saturday and there were no questions that had come up
71 then. S. Walsh asked what the new driveway would be constructed with. N. Dufresne said
72 he did not have that information with him. There was a brief discussion regarding the
73 material that will be used for the driveway. There were no further questions from members
74 or the audience. N. Hills motioned to close the hearing; J. Hartley seconded; voted
75 unanimously.

76
77 7:15 PM (7:40pm) **William & Cherie Frantz**, Request for Determination of Applicability,
78 (File No. 41D-1622), to upgrade a failed sewage system disposal system with a conforming

79 Title 5 system at 25 Pinewood Drive. Brian Grady of G.A.F. Engineering was present. He
80 explained that FEMA has the property mapped incorrectly. The home owners have a
81 LOMA to remove it from the flood zone. A copy will be sent to the Commission for the file.
82 N. Hills asked about stockpile of materials on site. B. Grady said that any stockpiles will be
83 temporary. There was a brief discussion regarding the access of the location and the
84 removal of materials. The Board of Health approved the plan on August 23, 2016. There
85 were no further questions from members or audience members. N. Hills motioned to close
86 the hearing; K. Saint Don seconded; voted unanimously.

87

88 7:20 PM (7:45pm) **L. Reinhart**, Follow up on Enforcement Order for File No. SE 041-
89 1141, 17 East Avenue. Rick Charon of Charon Associates was present. He explained that
90 they will be filing a Notice of Intent and that they are filing a Chapter 91 license. There was
91 a Chapter 91 license in 1993 that was to include both lots but it was not properly recorded.
92 Therefore, only one lot is covered under the current Chapter 91 license. R. Charon
93 explained the condition and the work that had been done on the seawall. There were no
94 further questions from members. Rick Charon did ask about 17 Reservation Way which has
95 a Request for a Certificate of Compliance. This will be discussed at the next meeting on
96 September 14, 2016.

97

98 7:25 PM (7:55pm) **Elizabeth Middleton**, Notice of Intent (File No. SE 041-1250), for the
99 construction of an in-ground pool and an addition to an existing single family dwelling at
100 40 Joanne Drive. (Continued from August 10, 2016) The applicant has requested to
101 continue the hearing to September 14, 2016 at 7:05pm. N. Hills motioned the continuance;
102 K. Saint Don seconded; voted unanimously.

103

104 7:30 PM (7:55pm) **Doug Thackeray**, Notice of Intent (File No. SE 041-1239), to
105 construct and maintain an aquaculture project east of Stewart's Island at Sippican Harbor.
106 (Continued from August 10, 2016). D. Thackeray was present. He had submitted new
107 coordinates and a letter he had received from the Division of Marine Fisheries. He is still
108 waiting from comments from the Army Corps of Engineers. Harbormaster Isaac Perry was
109 present and said that his office had very few concerns with this applicant's location from
110 the beginning. He noted that it is a much smaller area than previously proposed. S. Walsh
111 asked if there were any navigational concerns. I. Perry said there is not since it is tucked
112 close to the shoreline. He will have comments in writing submitted from his office. There
113 were no further questions from members or the audience at that time. Army Corps of
114 Engineers still needs to submit their comments. C. Callow motioned to continue the hearing
115 to September 28, 2016 at 7:05pm; N. Hills seconded; voted unanimously.

116

117 7:35 PM (8:00pm) **418 Point Road Trust, c/o Barbara Shingleton**, Trustee, Request for
118 Determination (File No. 41D-1623), to construct a three bedroom addition, remove and
119 rebuild the circular paved driveway and upgrade the existing septic system at 418 Point
120 Road. Dave Davignon of Schneider & Associates, Inc. was present as was Lars Olson,
121 contractor. D. Davignon said that most of the work proposed is outside of the Commission's
122 jurisdiction. He described the current dwelling and lot conditions. The proposal is for a three
123 bedroom addition that will be kept outside of the Velocity Zone. A very small portion of the
124 porch falls in the flood zone. Approximately 8'-10' of the porch will be within the 100' Buffer
125 Zone. D. Davignon then described the current septic system and the new system to be
126 installed. He said the new system will be just within the riverfront and flood zone. The
127 leaching field will be outside of the flood zone. D. Davignon described the drainage
128 problem that is caused by the incline down the driveway. It runs to the courtyard and
129 foundation of the house. They are proposing to install catch basins to collect the water
130 before it gets to the house. Nearly all of that work is outside of the Buffer Zone. The outfall of
131 the catch basins will be near the gazebo. N. Hills asked about the amount of water that will
132 come out of the discharge pipes at the gazebo, D. Davignon said that approximately 60%
133 of the water from the driveway. The discharge pipe is approximately 20' from the BVW.
134 There will be erosion control installed before any work begins. S. Walsh asked about the sub
135 pump discharge location and if it would be possible to move it east of the pool house.
136 There was a brief discussion and D. Davignon agreed that it was a great idea. He said they
137 could bring it around the pool house. By doing so it would be approximately 75' from the
138 wetlands instead of the proposed 20'. L. Olson said that side is heavily wooded. There were
139 no further questions from members or the audience. C. Callow motioned to close the
140 hearing; N. Hills seconded; voted unanimously.

141

142 7:40 PM (8:15pm) **Carolyn Mostello**, Appointment for Discussion regarding potential
143 changes to the Bird Island Restoration Project, File No. SE 041-1231. C. Mostello of the
144 Division of Fisheries and Wildlife was present. She said that season one was completed. She
145 reviewed the seven proposed modifications to the Bird Island Project. This list of proposed
146 changes was received on September 6, 2016. Scott Cowell voiced his concern over the
147 amount of fill around the lighthouse. He wanted to be assured that that elevations are met
148 or are lower than the door of the lighthouse. He also asked about the size of the cement
149 barriers. J. Hartley asked about the plan that had been submitted. It was issued on August
150 22, 2016 and is the most current version. C. Callow thanked C. Mostello for coming to the
151 appointment and explaining the modifications.

152

153 Discussion regarding the **Enforcement Order** issued to the owners of 11 Hiller Street. D
154 Davignon was present to represent them. He said that he recently sent a letter to the
155 Commission stating that his office has been hired to prepare the after the fact filing. Due to
156 their current workload, his office was unable to prepare the filing for this meeting date.
157 They will be filing a Notice of Intent and Waterways License Application by September 28,
158 2016. C. Callow read aloud the letter that D. Davignon had sent to the Commission.

159
160 Request for Certificate of Compliance for **Paul & Leslie Kuo**, File No. SE 041-1147, 139
161 Converse Road. Tom Lovett was present to represent P. Kuo who was also present. He
162 described the current condition of the replicated area. He asked about using a different
163 barrier than permanent boulders since he felt that boulders could be harmful to the
164 vegetation. There was a discussion regarding on what to use to permanently mark the limit
165 of work. It was decided that they will install 8 cedar posts and attach signage to those
166 poles clearly marking the limit of work. T. Lovett will submit plans showing the locations of
167 the markers. At that time a site visit will be scheduled and an appointment be made for
168 that following meeting.

169
170 Discussion about a letter from **MOSAC** regarding repairs at Grassi Bog. N. Hills
171 reviewed the plans and explained the changes that are proposed to the inlets and outlets.
172 They are now proposing to use a gravel blanket rather than that was proposed previously.
173 He also noted that on the plan there appeared to be a few typographical errors. Members
174 voted to send a letter to MOSAC asking for clarification on the gravel blankets, asking
175 about the USDA impact and asking them to correct the typographical errors.

176
177 There was a brief discussion regarding the free MACC seminars that will be held in
178 September in Lakeville and New Bedford.

179
180 MACC Fall Conference Invoice for C. Callow's attendance was approved for
181 payment.

182
183 MACC Membership Invoice for FY17 was approved and included memberships for
184 the Associate Members. Also approved was the \$15.00 online handbook for Associate
185 Member S. Walsh.

186
187 The Wanderer Invoice #6969 was approved for payment.

188
189 Minutes from July 27, 2016 and August 10, 2016 were approved.

190 Third Extension Permit for MassDOT for Order of Conditions File No. SE 041-945, to
191 maintain drain systems on Routes 6, 105 and I-195. C. Callow read aloud the letter with
192 information received from MassDOT. N. Hills motioned to issue a three year Extension Permit,
193 K. Saint Don seconded; voted unanimously.

194
195 N. Hills motioned to issue the Determination of Applicability for William & Cherie
196 Frantz, File No. 41D-1622, 25 Pinewood Drive. Negative Box #2. J. Hartley seconded; voted
197 unanimously.

198
199 N. Hills motioned to issue the Determination of Applicability for James Kiehl, File No.
200 41D-1621, 15 West Avenue. Negative Boxes #2, driveway to remain gravel. K. Saint Son
201 seconded; voted unanimously.

202
203 N. Hills motioned to issue the Determination of Applicability for 418 Point Road Trust,
204 File No. 41D-1623, 418 Point Road. Negative Boxes #2 and #3. Special condition that the
205 discharge is east of the pool house. J. Hartley seconded; voted unanimously.

206
207
208 Meeting adjourned at 9:20pm.

209 

210
211 Donna M. Hemphill, Administrative Assistant

212 Approved: September 14, 2016

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