

WEST TISBURY CONSERVATION COMMISSION
MINUTES OF MEETING

April 25 and April 27, 2006

Present: Prudy Burt Chair, Patricia Durfee, Patrick Phear, Tara Whiting, Peter Rodegast, Debra Swanson, and Maria McFarland

Absent: Judy Crawford

Also present for all or part of the meeting: Brian Hurley of Rackemann, Sawyer & Brewster, Nancy and Bill Strecker, Kent A. Healy, Tim Sweet, Glenn Provost and Peter Wells of Vineyard Land Surveying, Inc, Frank Sutula, Mary Tavares, Dan Kaiser, Jay Guest and Louis DeGeofroy

Prudy Burt called the meeting to order at 5:00 P.M.

The Minutes of the April 4, 2006 meeting were approved as corrected.

Hearings

Map 3 Lot 68 (SE 79-Continuation of the public hearing under the Wetlands Protection Act and the West Tisbury Wetlands Protection Bylaw to consider a **Notice of Intent** filed by Schofield, Barbini & Hoehn, Inc. on behalf the Timothy D. Sweet for a project at 20 Longview Road. The applicant seeks permission to repair an existing dam on Blackwater Brook.

Kent reported that he and Tim met with Dave Merry who will be doing the work. The site will be accessed through lot 67, which is part of the property. As requested at the April 4th meeting, Kent Healy submitted a revised plan showing the proposed dam repair and including a plan to divert the stream while the work is being done. The stone will be dry stacked. A small bobcat will be used to do the work. The DEP issued a file number letter with no comment. Prudy closed the hearing. Patrick made a motion to approve the project as presented. Peter seconded the motion and the vote in favor unanimous. The board then reviewed the special conditions. A motion was made and seconded to approve the special conditions and that there are no additional special condition required under the bylaw. All in favor.

Map 3 Lots 2 and 2.1 - continuation of a public hearing under the Wetlands Protection Act and the West Tisbury Wetlands Protection Bylaw to consider a **Notice of Intent** filed by Vineyard Land Surveying Inc. on behalf of William and Nancy Strecker for a project at 237 & 243 Lambert's Cove Road. Mary Tavares, Trustee of the RFS Trust owns Lot 2.1. The applicant seeks permission to brush cut and maintain a 3 to 4 ft. wide path in the buffer zone and across a dune, and to construct and maintain a 4 ft. wide boardwalk across a bordering vegetated wetland along the edge of a pond and across a perennial stream. The purpose of this project is to relocate a path to within a deeded easement.

Debra recused herself as her husband; Richard Johnson is the Executive Director of Sheriff's Meadow, the conservation group that holds the conservation restriction on these properties. Prudy reopened the public hearing on this matter. Correspondence from William and Nancy Strecker dated April 11, 2006, copy of letter from Ron Rappaport to Daniel Perry of Perry, Hicks, Crotty and Deshalies, LLP dated April 10, 2006 sent on our behalf requesting a legal opinion.

The opinion letter from Mr. Perry dated April 21, 2006 was circulated so that all parties present could read the opinion of Daniel Perry. Prudy updated those present.

The DEP file number letter has been received. Glenn Provost received the letter from NHESP which Prudy read into the record.

Prudy asked for comments from the audience. Brian Hurley said he hadn't had time to digest the letter but disagreed with Mr. Perry's opinion.

Patrick said as a layperson said he believes implicitly that he believes that the Streckers as holders of an easement should be allowed to have their application heard.

Frank Sutula said there are a number of issues here beginning with work previously done on the driveway. Prudy interrupted Mr. Sutula to remind him that the matter before the Commission was the current Notice of Intent and not any past projects. Mr. Sutula continued by saying that this NOI fails to address the impact on the land from this 250 ft. boardwalk. It doesn't discuss many issues such as the edge of the pond and how the height of the pond changes. In looking at the plan it lacks a lot. Prudy said that those are the things that we would consider.

Maria said that Mr. Perry's letter reminds that Mary Tavares's does have the right to approve the design and location of the trail. Prudy said that we ask for more information from applicants all the time.

Prudy then took the consensus of the Commission Prudy said this case belongs in the courtroom before it belongs in front of this board. Peter said he agreed that things needed to be worked out before coming to the Board.

Tara agreed.

Patrick said he was torn. In human terms this is wrong to have to deny it. It would be ideal if there were not two trails blazing through this resource area and when someone has a deeded legal easement they are in effect the property owner

Prudy motioned that the Commission deny this notice for lack of administrative completeness. Tara seconded. All in favor.

Maria reminded that there should be a vote on this under the bylaw. Prudy put forth an amendment to the motion to include a denial under the Bylaw for lack of requested information. After discussion the amended motion was seconded. Patrick abstained. Tara, Peter, Prudy voted in favor of issuing a denial.

Map 7 Lot 71 a public meeting under the Wetlands Protection Act and the West Tisbury Wetlands Protection Bylaw to consider a **Request for Determination of Applicability** filed by Vineyard Land Surveying, Inc. for property owned by Leon Higginbotham located at 60 Longview Road. The applicant is seeking permission to drill and install a new well and trench associated water lines in the Buffer Zone.

Peter recused himself, as this is a South Mountain Company project. Peter Wells of Vineyard Land Surveying was present. The stream is highlighted on the tax map. Patrick, Maria and Prudy were at the site visit. John Clarke will do the work. He has a lot of experience drilling in sensitive areas. In reviewing this NOI Maria asked Vineyard Land Surveying to determine if this project was in the Riverfront Area. Peter Wells said they determined that it was not in the Riverfront Area.

Hay bales will be located on the waterside and it is fairly level on the top of the hill. This project may not require taking any trees down. Patrick asked what would happen with the effluent from developing the well. Peter answered that it will be contained by the hay bales. Sometimes John digs what is called a sump that is a trench that gets filled in. John also has a fancy system that can pump it up to the yard and then it is backfilled into the trench.

There being no further discussion, Prudy closed the public meeting. Tara made a motion that a Negative Determination because the work is in the Buffer Zone but will not alter a resource area protected under the Act. A Notice of Intent is not required for this work. All in favor.

Hay bales will be staked and maintained until the work is complete and the site is revegetated. The drilling spoils will be removed from the site or used as described above.

Map 32 Lot 115 a public meeting under the Wetlands Protection Act and the West Tisbury Wetlands Protection Bylaw to consider a **Request for Determination of Applicability** filed by John Early Contractor for property owned by the Martha's Vineyard Garden Club located at 690 Edgartown Road. The applicant is seeking permission to replace an existing porch and staircase in the Riverfront Area. Louis DeGeofroy. Pictures were circulated.

John Early Builders will be replacing an existing porch/ fire escape with a new one that is substantially identical except for the balusters. The spacing of the old balusters is not to code. The balusters and framing will be ACQ. The decking will be vertical green fir. At the site visit it was noticed that there were two footings that need to be replaced. There is one that is a cement block resting on grade and the other one is a sonotube resting on grade. The new footings will go down 2 feet, which might bring it into water. The contractor will take steps to mitigate sawdust that is generated by using a vacuum system on the saw. A tarp where cutting. Everything will be stored in the parking lot and bring on site as needed. Earth taken out will be put in wheelbarrows and reused or taken away. No machinery will be used. There is no expansion of the size. Peter made a motion that maintenance of a structure in existence on August 7, 1996 is exempt from the provisions of the Riverfront Area under 310 CMR 10.58 (6) (a) and Section III. A. 1 of the Bylaw. Nonetheless, mitigation measures will be as set forth in the project description of the Request for Determination. The motion was seconded and the vote unanimous.

Map 32 Lot 83 a public meeting under the Wetlands Protection Act and the West Tisbury Wetlands Protection Bylaw to consider a **Request for Determination of Applicability** filed by Vineyard Land Surveying, Inc. for property owned by James L. Cooper, Jr. located at 11 Factory Brook Road. The applicant is seeking permission to do site work in the Buffer Zone associated with construction work outside the Buffer Zone. Peter Wells along with Jay Guest were present. Peter explained that this is not in the Riverfront Area. Whatever is flowing is more than two hundred feet from the area in question. Hay bales will act as a limit of work area. Any disturbed soils will be put back. Peter explained how the foundation on the east elevation, the side that faces the pond would be addressed. Jay Guest described what they would do in digging the foundation.

If there a future landscaping plan the owner will have to come back to the Commission. Currently the plan is to just regrade the area so that the final grade will be the same.

Patrick: commented that slope looks to be about 45 degrees and asked how they propose to stop the fill from screeching back down the hill? Jay said they will put metal stakes in to secure the hay bales and any material that gets caught will be removed. Hay bales will be left in place until the site is revegetated. Peter Rodegast said it looks like the ridge of that part of addition or the roof slopes away from the wetland and asked what the drainage issues might be. Jay Guest replied that on both sides of the house the roof

run off would be from the roofs into dry wells. The gutters are going to run into drywell. Peter Rodegast questioned whether this application should have been a Notice of Intent as the area is previously undisturbed. Peter Wells answered that this is what is called a "borrow pit". It was used to take the dirt out for another use so the area has in fact been previously disturbed. Prudy closed the public meeting. Patrick motioned that a Negative Determination be issued under the Wetlands Protection Act and the Bylaw. The motion was seconded and unanimously approved. Conditions will include staked hay bales and snow fencing. The determination does not approve any clearing, cutting or creation of view easements in the buffer zone and no clearing is permitted on the easterly side of the hay bales as shown on the plan. Any landscaping plan shall be submitted to the Commission for approval. Roof runoff will be directed into drywells. There will be no change in the final grade and backfilling will be done to stabilize the hillside and prevent erosion.

Map 35 Lots 1. 1& 1.13 The next conference call with DEP, the applicant's attorney and the administrative magistrate is scheduled for 2 PM on May 4th. The current proposal is detailed in the Magistrates order following telephone conference dated April 12, 2006.

Old Business

Old House Pond Land Bank Management Plan – Tara reported that there is a redraft of the management plan. Maria has a copy of the redraft available at the office. The Land Bank will be providing a redlined copy marked to show the changes from the first draft. Patrick said that we should figure out our concerns but that Tara can represent the Board.

Administrative:

The Board approved the carry over of 7 vacation days for Maria.

This meeting was adjourned to April 27th at 3:30 PM at the town hall for the purpose of discussing the draft regulations.

Prudy reopened the meeting. Prudy, Patrick, Pat, Debra and Maria were present to review Greg McGregor's redraft of the regulations. Maria was instructed to make the approved revisions. It was decided that the public hearing on the regulations would be held on May 23rd at 7:00 PM. An ad will be run in the Gazette on May 12th and May 19th.

There being no further business on the agenda, the meeting adjourned at 4:40 PM.

Respectfully submitted,

Maria McFarland
Board Administrator
APPROVED