

WEST TISBURY
CONSERVATION COMMISSION
MINUTES OF MEETING
September 12, 2017

Present: Prudy Burt, Whit Griswold, Michael Turnell, Peter Rodegast, and Peyton Wallace

Absent: John Brannen, and Binnie Ravitch

Staff Present: Maria McFarland

The meeting was called to order at 5:05 P.M. Tara Whiting-Chairman presiding.

Minutes:

The minutes of the August 15 meeting were approved as revised. Michael abstained.

The minutes of the August 29 meeting were approved as revised.

Continued Public Hearings:

James Pond/SE79-364: a public hearing under the requirements of G.L. Ch.131 § 40, as amended, and the West Tisbury Wetlands Protection Bylaw and regulations to consider a **Notice of Intent** filed by the West Tisbury Board of Selectmen and Herring Warden for a project proposed at James Pond and Map 6 Lots 13 and 20. The project consists of work associated with breaching the barrier beach at James Pond including dredging the associated meander for the purpose of restoring a fish passageway, placement of fiber rolls and beach grass plantings

No quorum of members eligible to vote on this matter being present, the public hearing on this matter was continued to October 10 at 5:10 PM.

Old Business:

Map 39 Lot 7/ Eden/ Pease/ Restoration areas: Members viewed photographs from the site visit that Mike and Maria did on September 7 showing the extent of the lawn prior to this project and current site conditions. The straw bales that the Board asked for at the July 20 visit are in place and in good condition.

The Order of Conditions requires the property owner to create a 5 foot wide buffer strip along the area between the edges of clearing shown on the project plan. This is also the area where the revetment was built an additional 6+/- feet seaward. To compensate for the error in construction, the property owner has added an additional 6 feet of plants bringing the total width of the buffer strip between the edges of clearing to 11 feet. The Order provides that the remainder of the Buffer Zone be restored to the pre-construction condition.

The areas to the north and the south revetment (on both sides of the existing edges of clearing shown on the project plan) show significant regrowth. On the north end of the revetment/ gabion baskets the restoration area is 24 feet deep. On the south end, the restoration area is 28-29 feet deep. The beach grass plantings on the top of the bank are also coming in.

Michael said the restoration plantings on the north and south ends of the revetment have blended very well into the existing vegetation. The plantings were done in accordance with the planting plan.

Members reviewed the As-built plan dated August 7, 2017. There were several questions about accuracy of this plan. Maria will ask George for clarification.

Members discussed requiring temporary flagging so that they could better understand where the additional land was gained. Maria and Michael explained why they did not think temporary flagging was needed.

Prudy suggested that the board add a condition that they put in permanent markers along the edge of clearing around the whole house. Tara said if the board asks them to install permanent markers there is no need for them to do temporary flagging.

Maria will ask George to come in for the next meeting to discuss the installation of permanent markers and to explain the As-built plan. No action was taken.

Map 39 Lot 10 and 11 driveway relocation: Members discussed the paperwork trail on the driveway relocation at 234 Middle Point Road. The current status of the Emergency Certification issued in 2012 that provided a temporary fix to the eroding coastal bank where the driveway is located was reviewed. Prudy asked for clarification as to why the condition of the certification that required the property to file a Notice of Intent was no longer valid. Maria explained that Emergency Certifications are only valid for 30 days and work that can be done is only to abate the emergency. In 2012 the board was in the middle of a lawsuit with the property owner. She said the board had guidance from Town Counsel on the Emergency Certification. There is no guidance beyond what is stated in the regulations.

After the lawsuit was settled, the 2014 Order of Conditions for the coastal bank stabilization project at 234 Middle Point Road included a finding and a special condition that the driveway would be relocated within 3 years from the date the permit was issued in February of 2014. In February of this year, the applicant submitted a draft sketch plan. George Sourati presented the sketch plan to the board informally at the March 14 meeting. Subsequently, the logistics of moving the driveway have been discussed with George and Elaine Florio at two site visits. However, there has been no formal submission of a driveway relocation plan.

Maria will confirm with DEP that the provisions of the Emergency Certification are void and if the applicant is in compliance with the requirement to submit a driveway plan before the deadline because they submitted a draft plan in February.

Whit asked why the board is concerned about the driveway. Prudy said that the driveway relocation was part of the discussion regarding the coastal stabilization project at 234 Middle Point Road and she would like to see it completed.

Members then reviewed and revised a draft letter to the property owner giving them until the end of September to submit a final plan. In the event the owner does not submit a final plan, the Order of Conditions provides that a hearing will be scheduled to determine if a fine will be issued.

A motion was made and seconded to send a letter to Wes Edens and Endofthedirtroad LLC requiring a plan to relocate the driveway at 234 Middle Point Road on or before September 30 or a public hearing will be held on October 10 to determine if fines should be imposed. All in favor.

[Note: After the meeting, Maria confirmed that the property owners had in fact filed a Notice of Intent to relocate the driveway in June 2013 but it was withdrawn that August when the lawsuit was settled. Maria was told by Dan Gilmore at DEP subsequent to this meeting that findings are not the same as conditions and that the correct way to handle this was to inform the owner that they will be in violation of the Order

if they do not submit the plan with the required revisions that have been discussed. Upon closer review of the Order, there is a specific condition in the Order (#11) that requires a plan to be submitted.]

Peter suggested that language be put in the letter that relocating the driveway is important to the health of the pond.

A motion was made and seconded to send a letter to Mr. Edens, the final wording of which will be left to Tara and Maria. The vote in favor was unanimous.

Administrative

September 26 meeting on Tisbury Great Pond management: Tara and Maria will work on an agenda. Topics will include the following:

Responsibilities of Town boards; i.e. Board of Selectmen, Board of Health, Shellfish Committee and Conservation Commission

Roll of other stakeholders: MVC, Riparian Owners, MV Shellfish Group

Issues encountered with identification of the algae bloom that appeared in June

No action was taken.

Meeting with Board of Health: Tara will schedule a time to meet with the Board of Health. Maria will research board of health regulations of other towns to come with some examples of regulations covering enhanced denitrifying systems. We can also talk to them about the draft TMDL report and the impact of septic systems on Tisbury Great Pond.

Correspondence

Out: Comment letter re: Draft TMDL report

There being no new business to conduct, the meeting adjourned at 6: 30 PM.

Respectfully submitted,

Maria McFarland
Board Administrator
APPROVED