

WEST TISBURY  
CONSERVATION COMMISSION  
MINUTES OF MEETING  
May 10, 2016

**Present:** Prudy Burt, Whit Griswold, Binnie Ravitch, Peter Rodegast, Michael Turnell and Tara Whiting

**Staff Present:** Maria McFarland

**Also present for all or part of the meeting:** John Abrams, Ryan Bushey, George Davis, Matthew Dix, Ashley, Medowski, Reid Silva and Tom Tate

The meeting was called to order at 5:07 P.M. Tara Whiting, Chairman presiding.

**Minutes:** The minutes of the March 22 meeting were approved as revised. All in favor.

**Continued Public Hearings/Meetings:**

**Map 7 Lot 13/SE79- 365:** 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 Schofield, Barbini & Hoehn for a project to relocate an existing shed and construct a single-family dwelling, and to perform associated site work including underground utilities and site restoration in the Buffer Zone. The project is located at 367 Lambert's Cove Road, owned by Glenn O. Medowski, Trustee of the Glenn O. Medowski Revocable Trust.

Tara explained that the Board of Health has agreed to hold the covenant from the Medowski family. Chris Alley and Maria worked to finalize the wording of the covenant with health agent John Powers. Glenn Medowski has signed the document which will be recorded in the Dukes County Registry of Deeds. The Order of Conditions will reference the covenant as part of the special conditions on this project.

Commissioners' comments/questions:

Prudy asked how the house will be renovated to reduce the number of bedrooms. Ashley replied that one of the bedrooms is closet size and just has a twin bed. She said she wasn't sure how her father planned to make this change, but that he would probably remove the twin bed. Tara suggested that if a building permit is required, the BOH would find out from the building inspector.

Public comment: None

There being no further questions or a comment, the public hearing was closed.

A motion was made and seconded to approve this project as revised. Special conditions to include a pre-construction site visit, reference to the covenant, the installation of permanent markers to delineate the 25 foot No-Disturbance Zone under the Bylaw and to require a site visit once the markers are installed. All in favor.

**Map 11 lots 39 and 109.1/SE 79-367:** 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 Martha's Vineyard Land Bank for a project to expand the Manaquayak Preserve by constructing 365 ft. of new trail and installing an elevated boardwalk and viewing platform in an isolated wetland for viewing of Rainwater Pond. The project is located at 40 Pepperbush Way owned by the Martha's Vineyard Land Bank and Nation Lots Realty Trust respectively.

The Natural Heritage and Endangered Species letter was noted for the record.

Commissioners' comments /questions:

Prudy asked if Matthew would reduce the width of the spur trail to the boardwalk. The main trail needs to be 4 feet wide to accommodate the anticipated traffic. Reducing the width of the spur trail to 3 feet will equate to 50 square feet less of disturbance. Matthew agreed to make this change.

Public Comment: None

The public hearing was closed.

A motion was made and seconded to waive the requirements of Section IV of the Bylaw and to grant a variance to allow work to occur within the No-Disturbance Zone of the Bylaw. All in favor.

A motion was made and seconded to approve this project as presented with the exception that the spur trail to the boardwalk and viewing platform will be reduced from 4 feet to 3 feet wide in order to reduce the amount of disturbance in the buffer zone by 50 square feet. The vote on the motion was unanimous.

A motion was made and seconded to approve special conditions that will include all work to be done by hand, boardwalk and viewing platform will be constructed off site of rot resistant wood (no pressure treated wood). All in favor.

#### **New Public Hearings:**

**Map 7 Lot 69:** a public hearing under the requirements of the West Tisbury Wetlands Protection Bylaw and regulations to consider a **Notice of Intent** filed by Vineyard Land Surveying & Engineering, Inc., for a project to construct a driveway within 33 feet of an isolated wetland and to perform associated site work including the installation of a leach field and reserve area and trenching within the driveway for utilities. The house and well are outside the Commission's jurisdiction. No landscaping in the buffer zone is proposed. The project location is 52 Longview Road, owned by Michael A. Smith. The applicant has applied for a waiver from the Conservation Commission for work in the No-Build Zone.

Documents noted for the record:

- Letter from Doug Cooper dated January 3, 2015 regarding his determination of what type of wetland exists at this property. The letter states that he observed no conditions that would indicate that the area of concern is a vernal pool. Due to the limited hydrology, the artificial nature of the depression and minimal habitat value of the isolated wet area, Doug's opinion was that it is not a wetland covered by the Wetlands Protection Act. The letter does not comment on whether it is covered by the Bylaw.
- Letter from Natural Heritage and Endangered Species Program dated May 6, 2016. No comments.

Reid presented the project. This is a vacant 1 acre lot created prior to zoning. It is an unimproved, pre-existing, non-conforming lot. In 1988, Rusty Walton characterized a wetland area identified on this property as man-made.

Reid said for the purpose of this application they have treated this 1,740 square foot area as an isolated wetland as defined under the bylaw.

Reid submitted a revised project plan showing that the footprint of a proposed house has been shifted. The building envelope for the house is outside the Commission's jurisdiction.

The driveway is within 33 feet of the isolated wetland. The possible location is restricted by the lot line and the fact that the abutting property's driveway is also close to the property line. If the driveway was pushed closer to the lot line it would be hard to have screening between the parcels.

Siting the septic system and well was determined by the Board of Health setback requirements. The owner will need a variance from the Board of Health.

#### Commissioners' Comments/Questions:

Whit asked how it is possible to have a 16 foot setback from the house to the lot line. Reid explained that because the lot pre-dates zoning, the current setback requirements do not apply for structures.

Maria noted that in 1988 a Determination of Applicability was issued by the Commission for the construction of a house that was never done.

#### Public Comment:

Letter from abutter Cathy Tasman dated May 3, 2016 stating her objections to the project was noted for the record. . The letter also provides some information on the drains around her house that are visible on the Smith property and states that no drainage pipes direct water to the wetland.

George Davis, attorney for the Tasmans said there are 4 pipes; 2 PVC pipes coming out from under the house and 2 coming from the gutters.

Mr. Davis wanted to be clear about how the Commission was identifying the wetland. He said there is an assumption that this is a borrow pit and that there is no definitive determination as to the nature of this wetland.

Prudy agreed with Mr. Davis and said she would consider it a vernal pool until proven otherwise.

Mr. Davis added that his client would be happy if there was no approval for any alteration of vegetation around the wetland.

Reid agreed to revise the plan to show the reserve area on the road side of the leach field. If the Board of Health allows, the setback from the reserve area to Longview Road will be reduced to 10 feet. This change would place the leach field approximately 95 feet away from the wetland edge. Reid will also put the setback lines for the No-Disturbance and No-Build Zones on the plan so if the owner wants to do any landscaping they will know that any landscaping within the buffer zone will require further review and approval under this Order of Conditions.

The public hearing on this application was closed.

A motion was made and seconded to approve this project as presented in the Notice of Intent and to grant a waiver to construct a section of the driveway in the No-Build Zone. All in favor.

Discussion on special conditions included a pre-construction site visit, submittal of a landscaping plan with a caution to the applicant that no landscaping would likely be approved in the first 50 feet of the buffer zone.

Peter suggested that there be a special condition that the property line be staked to determine exactly which parcel the pipes/drains are located on.

It was suggested that a letter be sent to the Tasmans regarding the need to figure out whose property the pipes are on and whether they serve any purpose. The letter will also include a reminder that they should stop placing yard waste over the property line into the wetland area.

A motion was made and seconded to approve the special conditions. All in favor.

**Map 14 Lot 2/SE 79-368:** 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 Vineyard Land Surveying & Engineering, Inc., for a project to construct an addition to the existing dwelling, construct a new guest house, install a septic system, well and waterline, reconfigure the existing driveway and landscaping and maintain the existing view channels.. The project location is 38 Forest Road.

Peter recused himself from voting on this project because of a conflict of interest.

John Abrams of South Mountain Company gave a brief history of how this project has evolved.

The applicant is seeking approval of the construction of an addition to the existing house resulting in a 3,200 square foot main house and a new guest house. They also plan to relocate the driveway, remove the shed and back porch on the existing house that is closest to the wetland.

The applicant would also like permission to keep the area within the stone wall as a landscaped area. A portion of this enclosure is within the first 50 feet of the buffer zone.

Areas of restoration shown on the plan include 14, 621 square feet of previously mown bordering vegetated wetland and 10,085 square feet within the first 25 feet of the buffer zone.

There was a lengthy discussion about the height of vegetation where two of the three view channels intersect. Currently this area is mowed and there is no shrub layer. In the area within the proposed view channels that is mown, the applicant would like to have a determination as to how high the vegetation must be before it can be cut. The stone wall behind this area is about three feet high. If the vegetation in front of the wall grows back to the same height as the wall, the view will remain. Once the vegetation has grown back, the applicant would like to be allowed to maintain the vegetation to a height of 3 feet.

Ryan said that in the areas outside the view channels, the applicant is looking for approval to maintain the vegetation at its current height.

With respect to the proposed guest house, the view channel already exists.

John said the applicant is asking the Commission to approve the existing view channels and designate a height to maintain vegetation. A new owner would have to come back to the Commission if they want to prune or remove any trees in the existing view channels.

Within the green hatch-marked area on the landscape plan the vegetation is currently about 6 to 8 feet high.

Kit's studio will be left in place.

John said that the brush cutting under the Beetlebung trees that was done within the last two years will not be maintained.

Commissioners' Comments/Questions:

Michael asked if the view channels will be from the ground level and the second floor view or just the first floor view. The canopy of the trees will be affected if trying to obtain a view from the second floor. Michael added that the views are already there.

John replied that the applicant would like to memorialize the existing height of vegetation to keep the view from the first floor level. The elevation of the first and second floors is already known.

He acknowledged that a new owner would need to come back for approval of any tree cutting or pruning in the approved view channels.

Prudy said she could agree to approve the side lines of the view channels but not the height of the understory or the pruning/cutting of any trees at this time.

Reid said that the height of the understory for a ground view is already known. It is the view from a second floor that is not known and is what a new owner would need permission to establish.

Prudy said she wants the board to remain steadfast on the policy of not specifying what can be cut or pruned in a view channel until there is a building to look out of.

Whit disagreed about being steadfast. The request is reasonable and the fact that the area has been mowed and they are asking to maintain it at a height of three feet is also reasonable.

Public Comment: None

With the consent of the applicant, a motion was made and seconded to continue the public hearing on this Notice of Intent to May 24 at 5:10 PM. All in favor.

#### **New Business:**

**Synthetic Turf Proposal/ MV High School:** Samantha Look sent a letter to the Commission expressing her concerns about the proposal to upgrade the athletic facilities at the high school using an artificial turf. After a brief discussion about whether the Commission had standing to weigh in on this project, a motion was made and seconded to send a short letter to the MVRHS committee stating the Commission's concern over the use of synthetic turf for the athletic field at the high school. The vote in favor was unanimous.

#### **Old Business:**

**Map 1 Lot 50/SE79-358/Beach Pebble Road/ Landscaping/restoration:** Members conducted a site visit on May 5 with Tom Tate to look at landscaping and view channels and found that there was a significant amount of fill and run off at the construction site. Tom was present to update the board.

On the north east side of the house there is a significant amount of unauthorized fill that has been placed and that the silt fencing is not in the right place.

Tom said Dale McClure did the original clearing. He will have Dale pull the fill back down to the original grade. No top soil was removed in this area so the root mass should still be intact. Tom explained that when the area was backfilled they went too far toward the bank.

Tom asked if he could put jute matting and a native seed mix down to stabilize the area.

The restoration area will be seeded with a mix of sheep fescue red fescue and little bluestem which is island harvested.

Mike said that once the fill is pulled back vegetation should be put back. If the huckleberry mat is gone there is nothing left to slow down runoff. Tom replied that the area was not stripped so the huckleberry should still be in place.

Peter pointed out that the retaining wall that extends into the buffer zone was not on the approved project plan. Maria explained that at a site visit she did with Tom in January, she told him he could put a retaining wall up outside the buffer zone. Tom said the reason it extends into the buffer zone was to build it out to match the grade. A perforated pipe place under a retaining wall on the west side of the house will be capped to avoid runoff toward the coastal bank.

A second site visit will be done once Dale has completed removal of the fill.

**Map 34 Lot 10.1/ SE79-366/ Special Conditions/Review:** A motion was made and seconded to approve the special conditions as revised. All in favor.

**Town Properties/BOS draft of Rules and Regulations:** Maria reported that the Town Administrator is working on a redraft of this document. Elizabeth Buyn called today and will be on island on May 19. She was told that she could not take trails rides through Greenlands until this is sorted out. This matter will be on the Board of Selectmen's meeting agenda for May 25.

Maria explained that the redraft of the regulations will make it clear which boards are responsible for which town properties.

A motion was made and seconded to prohibit any commercial activity within the Margaret K. Littlefield Greenlands property. The vote on the motion was unanimous.

**Bylaw revisions:** Prudy reported that the subcommittee has completed their review of the bylaw regulations and would like to make one revision to Section XVI. C. 3 of the bylaw by deleting the last sentence. A motion was made and seconded to hold a public hearing on this revision. All in favor. Maria was instructed to post a public hearing on this proposed revision for the next available meeting.

#### **Administrative:**

Map 36 Lot 43/SE79-58 and 160/Certificates of Compliance were signed. Maria noted that these are old orders that do not have any ongoing conditions.

Noted for the record:

Map 11 Lot 41.1 /101 Pepperbush/Administrative Review/dead tree removal

#### **Correspondence:**

**In:** Map 11 Lots 39 and 109. 2 DEP file no letter  
**Out:** Map 7 Lot 64/ Thank you letter  
OB Solar Letter

There being no new business to conduct, the meeting adjourned at 7: 25PM.

Respectfully submitted,

Maria McFarland  
Board Administrator  
APPROVED