

WEST TISBURY
CONSERVATION COMMISSION
MINUTES OF MEETING
December 22, 2020

Present: John Brannen, Geraldine Brooks, Whit Griswold, Angela Luckey, Donna Paulnock, Binnie Ravitch, Peter Rodegast, and Tara Whiting-Wells

Absent: Michael Turnell

Staff Present: Maria McFarland

Present for all or part of the meeting: Emile Carter, Sheri Caseau, Doug Hoehn, Jordon Hoehn, Kate Lauprete, Chris MacIssac, Thomas Rainer, Emily Reddington, Michael Shallett, and Claudia West

Whit Griswold called the meeting to order at 5:06P.M. The meeting was held via Zoom in accordance with the Governor's order suspending certain provisions of the Open Meeting Law, G.L. c.30A sec.20.

Minutes: The minutes of the December 8 meeting were approved as revised. Roll Call Vote: Binnie, Geraldine, John, Peter, Tara, and Whit voted in favor.

Continued Public Hearing

Map 3 Lot 68/20 Longview Road//SE79-420: a public hearing under the requirements of G.L. Ch.131 § 40, as amended, and West Tisbury Wetlands Protection Bylaw and regulations, to consider a **Notice of Intent** filed by Schofield, Barbini & Hoehn, Inc., on behalf of Timothy D. Sweet & Rachel E. Vanderhoop. The project consists of the conversion of a grass strip to a 12' wide driveway with a pervious surface, installation of underground utilities, trenching for a new waterline from the main house, and temporary encroachment into the Buffer Zone during construction to serve a new accessory apartment.

Blackwater Brook runs through this property and is ponded by a man-made dam in the back yard. There is also a pond in the front yard.

Doug described the grass driveway that comes into the property directly off Lambert's Cove Road that was used in the 1960's as the entry to this property that will be improved with dirt/hardener and underground utilities installed in the driveway. The accessory apartment and septic system are outside the Riverfront Area but in anticipation of construction activities temporarily encroaching into the last 10 to 15 feet of the Riverfront Area, erosion controls measures are shown on the project plan. The proposed structure will be built on a slab so the amount of disturbance will not be a great as if they had to excavate for a full Foundation. Trenching through the Buffer Zone is necessary to connect a water line from the main house to the new structure.

Commissioner's Comments/Questions:

Tara pointed out that the yard has been mown down to the resource areas in both the front and back of the property and that water quality testing has shown that Blackwater Brook is impaired.

Maria explained that when Mr. Sweet purchased the property in 2008 work done on the main house required a permit from this Board. The permit contained an ongoing condition regarding the use of fertilizers. When the Commission issued the Certificate of Compliance for the 2008 project, the Commission acknowledged in writing that there has always been a lawn on this property to edge of the pond in the back of the house, but asked Mr. Sweet to establish a 5-foot wide buffer strip along the edge of the pond in the backyard. Whit noted that the 5-foot buffer strip was a request and not a condition.

Peter commented that the project plan was fine but would like to see a buffer of 10 to 15 feet. Geraldine offered a 12-foot buffer strip with areas carved out for seating.

There being no public comment, the public hearing was closed.

Tara made a motion seconded by John to approve the project as presented. Roll Call Vote: Binnie, Geraldine, John, Peter, Tara, and Whit voted in favor.

Discussion on special conditions:

After a lengthy discussion about various widths ranging from 5 feet to 25 feet, it was decided that a 12-foot strip would suffice with a 10-foot radius of mown area for seating around benches with boundary markers set 50 ft. apart.

Mr. Sweet said he had no problem with a five or 6-foot buffer strip and that he has been doing that. The last cut of the year this year may have mowed right down to the edge of both ponds. He would prefer not to have to expand it to 25 feet. There are wild flowers around both of the ponds in the summer and 25 feet would come far into the yard.

Doug and Maria will sort out the details to be shown on the project plan. The plan will be submitted for approval by the board.

Other special conditions include a pre-construction site visit; the driveway must have a pervious surface with adequate drainage to avoid runoff toward the wetland with no stockpiling in the Buffer Zone.

A motion was made and seconded to approve the special conditions. Roll Call Vote: Binnie, Geraldine, John, Peter, Tara, and Whit voted in favor.

New Public Hearing

Map 23 Lot 3.1.SE79-419: 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. on behalf of Kate and Geoffrey Lauprete and JMMoulton Realty Trust, (lessee) of property located at 71 Tisbury Lane West owned by Seven Gates Farm Corporation. The project consists of the installation of a 20' x 50' in-ground swimming pool, pergola, retaining wall, relocation of a septic tank and associated site work within the Riverfront Area.

Reid Silva presented the structural portions of the project, and Claudia West and Thomas Rainer presented the landscaping plan.

Reid explained that to make the pool level they will need to add fill and a retaining wall on the north side to make it closer to the elevation of the patio and house. The work is within the first 100 feet of the Riverfront Area. In evaluating the possible alternatives, there are not many places on the property that are outside the Buffer Zone and no possible location outside the Riverfront Area.

Under the Wetlands Protection Regulations, this project may be considered a minor activity because it is the conversion of lawn to an accessory structure more than 50 feet from the mean high annual high-water line in the Riverfront Area or the edge of a bordering vegetated wetland; provided erosion controls measures are put in place during construction.

The project cannot meet the performance standards under the Riverfront Area regulations in the local bylaw regulations, which states that no structures can be built in the first 100 feet of the Riverfront Area without a waiver from the board. A request for a waiver has been submitted.

Claudia referenced the restoration of the property in removing invasive species that was approved by a 2018 Order of Conditions. The owners want to renovate the landscape to give it more meaning for their lifestyle and to integrate the improvements that are happening elsewhere on the property.

Thomas Rainer displayed a 17-slide presentation of existing and proposed conditions. He described the current landscape as typical foundation plantings dominated by exotic shrubs and turf grasses all of which are high maintenance. He termed the current landscape as “mid-century clutter” compared to the simplicity of the agrarian landscape of Seven Gates.

Proposed changes in addition to the pool and terrace include:

- Replacement of existing stonewalls some of which are historic and some of which are not because they are uneven and not square to the house. New walls will vary from 18” to 30”. The corner of the pool is a little over 4’. The new walls will be kept within a few feet of where they are now.
- Removal of trees to accommodate new wall construction.
- Removal of overgrown screening trees.
- Creation of a level area around the house for play and living.
- Redesign of the entry court that is now compacted gravel.

Mr. Rainer finished by saying that the goal of the proposed changes is to increase the usable space around the house, which is currently of low ecological quality and pull some of the uses out of the larger landscape to make them more ecologically robust spaces.

Commissioner’s Comments/Questions:

Board members acknowledged all the work and planning that went into this proposal, but the consensus was that this project as currently configured was not one they grant would approve.

Tara said she was wildly uncomfortable with this proposal. There is too much work being proposed in the first 100 feet of the Riverfront Area. The bylaw is clear about what is allowed in this area.

Geraldine said the proposal is not in the spirit or letter of what the town adopted in the bylaw. She would not approve a waiver request.

Binnie said the presentation and property are beautiful but she could not vote to approve a waiver for this proposal.

Peter and John both said the board has made exceptions in the past where there were no other options but the pool is not a vital need.

Whit commented that while the presentation was very thorough and impressive with a lot of talk about maintaining robust ecological balance with less impact. Aside from the setback issues, the design feels like it is not working with the landscape. He favors letting the landscape be rather than re-engineering it.

Reid replied that there is an avenue for waivers and there are specific instances where a project will not be detrimental to a resource area once it is completed.

The applicant requested a continuance of the public hearing to allow the applicant to reconsider their plan.

A motion was made and seconded to continue the public hearing to January 26 at 5:10 PM. Roll Call Vote: Binnie, Geraldine, John, Peter, Tara, and Whit voted in favor.

New Business:

Tisbury Great Pond: Members held an informal discussion with Emily Reddington, Executive Director and Michael Shallet, President of the Great Pond Foundation (the “Foundation”) to discuss their work on Edgartown Great Pond (EGP) and possible collaboration on Tisbury Great Pond (TGP) management.

Whit introduced this presentation by saying that over the past year the board has become more interested and informally encouraged by the Board of Selectmen to take a more active role in the management of Tisbury Great Pond (TGP). Recently, the Foundation joined forces with a newly formed Chilmark Pond Association to work on Chilmark Pond. Whit said the board wanted to learn more about this relationship with Chilmark and how West Tisbury might work with the Foundation keeping in mind that Chilmark owns half of TGP.

Emily gave a 30-minute presentation on the work of the Foundation in EGP. She explained the Foundations ecosystem-monitoring program that encompasses water quality testing, monitoring pond elevations, opening dynamics of how the pond changes during cuts, the health, and distribution of eelgrass, and the biodiversity of the pond. They also look at watershed nutrient loading to get a sense of where nitrogen and phosphorus are coming from and what can be done to mitigate the impact of these nutrients. The presentation focused on how they look at water quality and how they sample in EGP. Emily explained their methodology for displaying and analyzing the data that includes, salinity, clarity throughout the water column, dissolved oxygen, and water temperature.

The following bullets are highlights from the presentation:

- The Foundation conducted sampling on 34 days in 2019 and for more than 40 days in 2020.
- The Foundation does not sample for nitrogen in an effort to be collaborative with the MVC. They use the data provided by Sheri Caseau.
- To measure pond elevations and opening dynamics the Foundation uses the same type of logger that Kent Healy uses in TGP to measure pond elevation.
- The data collected drives management of the pond openings, which are done by the Town Edgartown in consultation with the dredge committee, the shellfish constable, and the Foundation.
- The town is responsible for determining when EGP will be opened whereas the riparian owners determine when to open TGP based on elevation as determined by Kent Healy.
- A large part of the foundations study of EGP focuses on eelgrass, which is a keystone species in a brackish pond. They have been working with the EPA and the Woods Hole Group to document the health, density, and location of eelgrass in the pond over time.
- The Foundation arranged to have MASS DEP conduct a fly over of south shore ponds for mapping eelgrass in the spring of 2020. Emily hopes the plan will be ready by July 2021.
- They also look at watershed nutrient loading in relation to the density of development that is low in the watershed.
- The Foundation worked with the hydrologists at the EPA to identify some nitrogen hotspots where remediation would be helpful.
- The Foundation works with organizations to provide a workflow and time line, historical data and all of the components outlined above.

After the presentation, Mr. Shallet introduced himself and spoke about the improvements to EGP since the Massachusetts Estuaries Report was issued. He described the use a dredge to open the cut, and how the foundation has worked with town officials in Edgartown with respect to dredging. He also talked about their outreach efforts to educate the Vineyard community.

Commissioner's Comments/Questions:

Whit asked how the authority to open EGP is different from TGP because there is no riparian owners group in Edgartown.

Emily explained that the authority to open the pond was given to the town in the early 1900's. There are several riparian owner groups around EGP but they have no authority to open the pond. The Edgartown Shellfish Constable makes the determination based on the data provided by the Foundation.

Whit followed up by asking how the Foundation gets along with the town. Emily said it is a matter of building trust and keeping open communication. They supply their data to the town so that the town can make informed decisions. Michael said they work closely with the town administrator and the shellfish constable.

Geraldine asked how the work funded and if there a town tax or other town involvement. Emily replied that they obtain funding through a combination of grants and private donations. The town does not contribute to funding their work.

John asked Emily to describe the relationship the Foundation has established with the Chilmark Pond Foundation and the types of services the Foundation will be providing to them. Emily answered that the Chilmark Pond Foundation is interested in the Foundation's scientific programs and communications abilities. The Foundation does outreach through social media, and a newsletter.

Maria asked Emily for clarification on whether the Foundation does nitrogen testing. Emily said it has not been their focus because testing the samples is expensive (\$200-\$250 per sample) and they have 12 sentinel stations in EGP. Currently the Foundation focuses on measuring salinity, temperature, dissolved oxygen, Ph, water clarity, turbidity; eel grass length, density, and distribution, what organisms are fouling the water, and, how pond dynamics change around cuts. Nitrogen testing is something that they plan to do going forward. In addition to using the MVC data, the Foundation has been collaborating with the Wood Hole Oceanographic Institute for some limited nitrogen data.

Angela asked how the Chilmark Pond Foundation is funding the work with the Foundation. Emily said she does not know how it is being funding.

Chris MacIssac, president of the TGP riparian owners association is working to establish t a TGP Foundation, asked if the Foundation is doing testing for cyanobacteria in TGP. Emily said they are going to be sampling for that in EGP and Chilmark pond in 2021.

Whit asked Chris for an update on the organization of a formal TGP riparian owners foundation. Chris said they are working on filing the required paperwork with the Commonwealth. They have their employee tax id number. They hope to roll out a capital campaign in the spring of 2021. He is working to fill out the slate of officers and directors.

Old Business

Map 36 Lot 18/SE79-416 70 Taffy's Field Road: Request for approval of a minor modification to house plan to increase the footprint by 8 square feet. The board said it was fine with the change and that it did not require formal approval of the board.

Administrative:

Bylaw regulations revisions were tabled to the next meeting.

Map 7 Lot 153/SE79-417/Septic Upgrade/ Certificate of Compliance: A motion was made and seconded to approve the issuance of this certificate of compliance: Roll Call Vote: Binnie, Geraldine, John, Peter, Tara, and Whit voted in favor.

Correspondence:

In: Map 3 Lot 2.1/Sutula/Copy of letter to Parks & Recreation regarding public trespassing at this property adjacent to Lambert's Cove Beach
Out Letter to MVC regarding MVRHS/ Ballfield

There being no further business to conduct, the meeting adjourned at 7:15 PM.

Respectfully submitted,

Maria McFarland
Board Administrator