WEST TISBURY
CONSERVATION COMMISSION
MINUTES OF MEETING
February 22, 2022

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. Public participation will be via remote participation (Zoom) pursuant to M. G. L. Chapter 20 of the Acts of 2021.

Present: Fred Barron, Geraldine Brooks, Whit Griswold, Angela Luckey, Donna Paulnock, Peter Rodegast, and Michael Turnell
Staff Present: Maria McFarland
Also present for all or part of the meeting: Michael Barclay, Michael Gately, Joel Kirshbaum, Daniel Lewis, Eliza Lewis, Rae Ann Mandell, Alley Moore, Alden Moore, Alexander Moore, Martha Moore, Max Moore, Paddy Moore, John Previant, Felicity Russell, Rick Serpa, George Sourati, Barbara Smith, Heikki Soikkeli, Amy Upton, James Wynn, and Peter Zeras

Peter Rodegast called the meeting to order at 5:02 PM.

Minutes: The minutes of the February 8 meeting were approved. Roll Call Vote: Angela – aye, Donna-aye, Fred -aye, Geraldine – aye, Michael - aye, Peter-aye and Whit -aye.

New Public Hearing:

Map 39 Lot 9 /SE79-431: 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 Sourati Engineering Group, LLC, for a project to install a plunge pool and associated equipment within an existing courtyard and to expand the size of a roof deck previously approved under Order of Conditions SE79-428. The existing courtyard is within the Buffer Zone to Land Subject to Coastal Storm Flowage (LSCSF) adjacent to Middle Cove on Tisbury Great Pond. The project location is 226 Middle Point Road owned by Almostendofthedirtroad, LLC.

Michael Barclay and George Sourati presented the project. A 48" cold water plunge pool will be installed in an existing courtyard currently under renovation as approved by Order of Conditions SE 79-428. The pool is a prefabricated structure that holds 5' of water. It will be installed on top of a gravel base that will sit approximately 2' above groundwater.

The request for the additional 10' of roof top decking is to square off what was previously approved and to provide better access.

Commissioner's Comments/ Questions:

Michael asked if a plunge pool requires a hydrant to be installed. George did not think so, but will confirm with the Zoning Board of Appeals.

The pool will be filled with untreated water trucked in to the site. The pool will not be drained.

There being no public comment, the public hearing was closed. A motion was made by Michael seconded by Geraldine to approve the project as presented with the condition that the pool be properly filled and drained. Roll Call Vote: Angela – aye, Donna-aye, Fred -aye, Geraldine – aye, Michael - aye, Peter-aye and Whit -aye.

Map 39 Lots 7 &8 /SE79-435: 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 Sourati Engineering Group, LLC, for a project to demolish an existing single-family dwelling and construct a new single-family dwelling construct two new driveways, abandon 3 sections of existing driveway and remove two existing sheds. The work is within the Buffer Zones to the top of a Coastal Bank and Land Subject to Coastal Storm Flowage including 70 feet of new structure within the Flood Zone adjacent to Middle Cove on Tisbury Great Pond. The project location is 208 & 216 Middle Point Road owned by Middle Point Bend, LLC.

The project straddles lots 7 and 8 which are each pre-existing non-conforming lots that have been merged (in title) to create one lot that conforms to current zoning. The board would like to know the square footage of the decking and terraces and see a landscaping plan. From the architects plan there appears to be a hardscaped terrace.

Sourati Engineering prepared an overall site plan and 4 separate sketch plans showing setbacks to resource areas as detailed below:

- Areas Sketch 1 (Buffer Zone, within 100' of a Coastal Bank & Wetlands) dated February 15, 2022
- Areas Sketch 2 (within 100' of a Coastal Beach) dated February 15, 2022
- Areas Sketch 3 (within 100' of a Salt Pond) dated February 15, 2022
- Areas Sketch 4 (within 100 Year Flood Area) dated February 15, 2022
- Architectural Plans by Michael Barclay, Architect, dated February 2, 2022 (2 sheets)

The existing 2-bedroom house will be demolished and replaced with a 3-bedroom house containing almost 6,000 square feet of livable space and an unspecified square footage of outdoor terraces and decking.

The foundation will be a standard crawl space constructed slab placed at elevation 7 with all mechanicals placed above elevation 10. The foundation location as shown on the architect's plan will be built in compliance with the FEMA building code. The remainder of the structure and all of the decking will be supported by pilings.

The project has been designed to stay outside the Buffer zone to the coastal beach and coastal bank. The entirety of the house is within the Buffer Zone to LSCSF.

Area of new disturbance within LSCSF:

- 257 sq. ft house and decking
- 2, 540 sq. feet of new driveway

Areas of restoration:

- existing driveways 2, 938 sq. f
- removal of shed 154sq. ft.

Driveways:

- The existing driveway to the camp on lot 7 will be abandoned and restored using root mat removed from the location of the new driveway for the new house on lot 8.
- The current driveway on lot 8 would be too close to the new house so it will be abandoned and restored. (It was suggested that if the house were smaller or pulled back there would be no need to relocate the driveway.)

- No new driveway is proposed within the No-Build Zone to the coastal beach.
- There is 249 feet of new driveway within the No-Build Zone to the top of the coastal bank. The applicant has filed a request for a waiver of the buffer zone provisions under the bylaw for work in the No-Disturbance Zone. k?)
- Second new driveway to a parking area will be located over the foot print of the existing house.

Setbacks:

- The new house will be set back 128 feet from the coastal beach. The plan does not show the distance from the top of the coastal bank. There are no proposed structures within the Buffer Zone to the edge of Middle Cove. The plan does not show the setback from the edge of the wetland.
- The house is more than 100 feet from the top of the coastal bank to Tisbury Great Pond.
- The new house would be slightly set back from elevation 10 which demarcates the flood plain elevation and the boundary of Land Subject to Coastal Storm Flowage (LSCSF)
- Camp on lot 7: This NOI does not seek permission for any alterations to the camp, only abandonment and restoration of the existing driveway. There are plans to renovate this structure that are not part of this application.
- Wells: The Board of Health has approved the location of two new wells just inside flood elevation 10.
- Septic System: The leach field is in compliance with the BOH setback to a coastal salt pond
- Work in Wildlife Habitat Areas: No work is proposed within Estimated Habitat regulated under the Wetlands Protection Act. It is located within Priority Habitat which means alteration of this area for installation. The comment letter from NHESP has not been received. It is the Commission's practice to continue all public hearings until the comment letter is submitted.
- MVC Referral: Does this project qualify for mandatory referral under section 8.4 of the DRI checklist or under the discretionary referrals related to visibility from Tisbury Great Pond and location of structure in a nitrogen sensitive watershed?

Commissioner's Comments/ Questions:

Geraldine noted that the Board of Health is currently reviewing the Town's sceptic regulations. George replied that the BOH has already approved the location of the wells. The BOH will not issue a permit for the septic system until after the wells are installed.

Geraldine followed up by noting that the town is reviewing house size. She feels this is a large and complex project with a lot of site disturbance in a sensitive area and that it needs to be looked at in a holistic way by the MVC.

Whit said that under the possible factors warranting discretionary referral, one might ask whether there will be a negative impact on the cultural or historical resources and neighborhood character. The camp was historically used for hunting. Proper houses were not built so that they could be moved back if a storm wiped out a structure. This house, while it may qualify under the DEP regulations as George describes, it is way out the character of the neighborhood. For this reason alone, it could be referred.

Angela noted that the project is within a District of Critical Planning under the DRI checklist, which is a mandatory referral. After a reading of the Section 8.4 it was clear that this section does not refer single family dwellings. The referral would be discretionary.

George offered to provide the board with an aerial photo of all the houses around Tisbury Great Pond that are smaller and larger than the one being proposed.

Peter noted that the other houses George is referring to are not in locations as fragile as this one. The new house is barely above the flood elevation. George replied that foundation will be 100 % compliant with the FEMA and building code requirements for structures within a flood zone.

Whit noted that the board does not have control over the size of this house.

Michael said that there will be a huge impact to the area during construction. Where will cars/ trucks be parked. Where will stockpiling be done. Michael asked about the impacts on the land such as compaction of soils, the number of vehicles and impacts to wildlife during construction of a project of this size.

Peter stated that the footprint is huge with sitting rooms as large as the bedrooms. Peter asked if it was necessary to have an approximately 3,000 sq. ft. parking area. Peter stated that the project flies in the face of everything the board is learning about managed retreat as sea level rises. Any revisions to the project would be great.

The board would like to know the square footage of the decking and terraces and see a landscaping plan. From the architects plan there appears to be a hardscaped terrace.

Public comment letters: The following public comment letters were noted for the record but not read or discussed. Martha Moore: 2/12/22, Planning Board: 2/15/22 and reply to PB letter Sourati: 2/17/22, Tara Whiting-Wells: 2/21/22, Phyllis Meras Cocroft: 2/21/22, Martha Moore 2/21/22 and Ginny Jones: 2/21/22. The letters are all written in opposition to the project.

Public Comment:

Alex Moore, who is a direct abutter to the north pointed out that this property is surrounded by water. He expressed concerns about impacts to neighboring wells from the new septic system. He thinks the project should be referred to the MVC. He also mentioned that if the existing road is relocated access over these roads that he and is family have had for more than 80 years will be lost. The Moore family has a deeded right of way over the road.

George responded that the septic system is compliant with Title V and the West Tisbury Board of Health regulations.

Alex said the bedroom that will be housed in the old camp makes this a 4-bedroom project. George replied that the current system for the camp is not compliant.

Alley Moore said his family brought a subdivision project to the WT Planning Board approximately 15 years ago that was approved with numerous restrictions.

Max Moore asked why it was necessary for each bedroom to have its own sitting room and asked if these sitting rooms could be used as bedrooms. He noted that the architects plan shows 5 toilets. Peter said the BOH will address the number of bedrooms. George said the sitting rooms can't be closed off to create additional bedrooms.

Patty Moore suggested the board may want to look at the other house on the point for the overall impact of both on lighting and visual impacts.

Staff comments:

- The leach field is within Priority Habitat. NHESP may or may not comment on that. The board may want to write a letter to the BOH suggesting that the BOH ask the applicant to install an enhanced system. George stated that he agreed to this on behalf of his client at the planning board meeting on site plan review.
- The Commission may want to get legal guidance with respect to whether the No-Disturbance and No-Build setbacks under the Bylaw regulations apply to the Buffer Zone to LSCSF. It is only in the last few years that the board has been seeing applications for this area so the regulations have not been tested.
- No information was provided on the size or materials for the decking and terraces and no landscape plan was submitted.
- Typically, the board reviews houses being rebuilt over the footprint of the existing house. This one is proposed be built more seaward. The new house would not be entitled to the protection of a coastal engineering structure.
- If the house was pulled back there might not be a need to put in a new road. It is good that the road to the camp will be abandoned and revegetated.
- Maria suggested having Greg Berman of the Woods Hole Sea Grant Program review this proposal.

George Sourati asked the board to defer a decision on a referral to the MVC until he has an opportunity to discuss the issues the board and public have raised. Whit said that was a reasonable request and that he hoped George was hearing that there is a consensus among board members and neighbors that this is a house that is exceptionally out of character with the neighborhood and he hopes that George will relay this to his client. Whit noted that just because the Commission hasn't referred a house to the MVC before, doesn't mean it shouldn't refer this one.

With the consent of the applicant's representative, a motion was made and seconded to continue the public hearing on this project to March 22, 2022 at 5:10 PM**.** Roll Call Vote: Angela – aye, Donna-aye, Fred -aye, Geraldine- aye, Michael - aye, Peter-aye and Whit -aye.

Maps 1 & 3 Lots 56 & 19 /SE79-432: 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 Sourati Engineering Group, LLC, for a project to construct a new path for access to a set of new stairs to the Makonikey common beach to replace the set of stairs that were damaged due to coastal bank erosion. The project location is the common beach at Makonikey and 146 Capawock owned by the Makonikey Roads & Beach Trust.
George Sourati and James Wynn of Sebago Docks presented this project.

Details on the stairs:

- Sand colored powder coated galvanized steel that will not rust.
- Pipes are machine driven 12'-18" into the bank below loose sand. There is as a 10" x"10 collar type pad that supports the post.
- The posts are 2 inches in diameter in comparison to the wooden posts of the old stairs at 4" 4"4.
- Stairs are flexible and will move with shifting sands and can be reset as needed.
- According to the installer, there will be enough separation to allow sand to migrate north east under the stairs.
- A narrative on the construction process was submitted with the NOI.

- Old stairs will be removed from the beach by hand. Rae Anne said that as the sections become loose, they are carried out physically or put in a boat. DEP commented that there could be more impact to the bank during the removal of the stairs.

Board viewed photos of other installations. Members would like the opportunity to view a set of these stairs.

Commissioners Comments/Questions

Michael asked about angle of repose and the elevation. James described how they change the stairs to accommodate the site conditions. The company will monitor the stairs on an annual basis.

Peter asked if the old spot might be more stable now that this has slumped. Michael said the area seems too steep. James displayed a set of stairs on a coastal bank that is steeper than this one. Peter recommended that the Board ask Greg Berman to take a look at this location.

Fred asked about the rate of erosion. George explained the 2 types of erosion; from wave and wind action and, surface water runoff and ground water seepage. The banks are a combination of sand and clay.

A motion was made by Michael, seconded by Angela, to continue the public hearing on this application to March 8 at 5:35 PM in order of the Commissioners to view a Sebago Dock staircase installed in Menemsha. Roll Call Vote: Angela – aye, Donna-aye, Fred -aye, Geraldine – aye, and Whit – aye.

Old Business;

Blackwater Brook Farm and Leonard-Peck Farm: Maria reported that she emailed the Southeast Regional office to request some guidance on the issues at these farms and is still waiting for a phone call back from Gary Makuch of DEP.

Map 32 Lot 48: Doane/ Eppel: An email came in today with a copy of a motion to dismiss filed by Town Counsel in the lawsuit against the Commission filed by the attorney for Nancy Eppel. No action is needed.

Administrative:

Correspondence:

In: Map 1 Lot 56 and Map 3 Lot 49/ NOI Makonikey beach stairs replacement
Map 39 Lots 7 & 7/ NOI/Demolition and construction single family dwelling
Map 39 Lot 9/NOI/Plunge pool and roof deck modification

Out: Map 12 Lot 13/Certificate of Compliance

There being no new business to discuss, the meeting was adjourned at 7:05 PM.

Respectfully Submitted,

Maria McFarland
Board Administrator
APPROVED
APRIL 19, 2022