

WEST TISBURY
CONSERVATION COMMISSION
MINUTES OF MEETING
January 10, 2023

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, Whit Griswold, Angela Luckey, and Peter Rodegast

Absent: Geraldine Brooks, Donna Paulnock, and Michael Turnell

Staff Present: Maria McFarland

Also present for all or part of the meeting: Michael Barclay, Steven Carr, Doug Hoehn, Louise Elving, Elaine Florio, Joel Kirschbaum, David Lewis, Will McKinney, Deana McDermott, Max Moore, Paddy Moore, Sandy Moore, Felicity Russell, Christine Robins, George Sourati, Mary Ann Thompson, Joe Walher, and Jeffrey Vogel

Whit Griswold called the meeting to order at 5:08PM.

Minutes:

The minutes of the November 22, 2022 meeting were approved as revised. Roll Call Vote: Angela -aye, Fred– aye, Peter-aye, and Whit– aye.

The minutes of the December 13, 2022 meeting were approved as revised. Roll Call Vote: Angela -aye, Fred– aye, Peter-aye, and Whit– aye.

Public Hearing:

Map 39 Lots 7 & 8/ SE79- 446: 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 Sourati Engineering Group, LLC, for a project at **216 Middle Point Road** owned by Middle Point Bend, LLC. The project consists of the construction of a garage and additional outside decking, installation of a 14.5’ x 52’ swimming pool, bulkhead, generator, and to perform associated site work within the first 50’ of the Buffer Zone to Land Subject to Coastal Storm Flowage, and to add an additional 1,701sq. ft of parking partially located within the flood zone below flood elevation 10.

Whit read the hearing notice and opened the public hearing. [Note: This is the original hearing notice. The project description has undergone two revisions since this notice was published.] This hearing is a continuation of the hearing that began on December 13. George Sourati presented the project revisions as follows:

- The size of the front entrance deck has been reduced in order relocate the proposed garage behind the new house. The garage will have a pitched roof rather than a “green” roof. A corner of the garage and the overdig area sits outside the original limit of work.
- A set of stairs has been added to north side of the deck.
- The second parking area has been removed.
- A proposed area of vegetation on lot 7 to provide mitigation for the parking area and garage has been removed.
- The amount of alteration within NHESP jurisdiction has been reduced from 432 sq. ft. to 102.sq.ft.

These changes remove all new construction within Land Subject to Coastal Storm Flowage (LSCSF) and reduce the total amount of alteration within the Buffer Zone to LSCSF from 4,094 sq. ft to 3,591 sq. ft.

There were no changes to the size or the location of the lap pool. The lap pool will be located 186 ft. from the top of the coastal bank

The landscaping plan will be very minimal. They will use the huckleberry and trees that are currently being stockpiled on site. A landscaping plan will be submitted at a later time.

Commissioner's Comments//Questions

Commissioners thanked the applicant for listening to most of the objections and concerns raised at the December 13 meeting by both Commissioners and abutters. Discussion centered on the remaining issues:

- Size of the garage: Whit asked if it was necessary to have a 3-car garage. Michael Barclay said the owners drive mini coops and he could look at reducing the dimensions from 22' x 32' to 20' x 30'. Angela asked if the garage could be pulled into the existing limit of work. Michael Barclay said they would have to go to the ZBA for setback relief and there would not be enough turn around space. Whit said the cars could be stored off site.
- Length of the lap pool: Angela asked if the pool could be shortened. Michael Barclay stated that the owner is adamant about the length of the pool and that it would be hard to shift the pool to the north because of the covered terrace under construction. He noted that while one corner of the pool extends over the current limit of work, the area is existing driveway. Once construction is complete, this small section of driveway will be replanted rather than remain a driveway. Michael explained that if they move the pool too far north it will encroach on the road and the covered terrace. Michael agreed to look at ways to reduce the size of the overflow catch basin and may be able to reduce the overall impact by 3 feet or so. Peter said he accepted George's explanation. The board can't force the applicant to reduce the size, he would like to see the pool length shortened and shifted north.
- Stairs: Peter asked why the new stairs need to be so wide and long and extend outside the current limit of work. Michael Barclay said it was to avoid needing a handrail. He agreed to look at the design again. He also pointed out that there has been no net increase in the amount of deck space. The shortening of the entry deck makes up for the square footage of the new stairs.
- Work outside the previously approved limit of work: Fred raised objections to construction drifting outside the limit of work. He said the applicant has been asked to reduce the size and scope of the project and he doesn't feel that the applicant has done this. Fred said it is the Commission's job to protect the island's wetland resources.

George said that this project is not as big as many of the projects going on around the island. Whit and Fred essentially said that what is happening in other locations doesn't change the fact that this is a very fragile location.

Public Comment: Max Moore, Paddy Moore, and Felicity Russell spoke against the project objecting to the size and scale of the project previously approved; circumventing the big house bylaw by not applying for the garage when they applied for the house, and coming back to ask the Commission to approve more disturbance to a fragile area. Abutters also commented on the size and scale of this project in relation to the size of houses in the neighborhood. Historically this area has been mostly fishing shacks and camps.

Peter summarized. He suggested the board could close the public hearing and vote on the project or the applicant's representatives could sharpen their pencils one more time and the hearing could be continued. Michael Barclay said he was willing to keep sharpening his pencil until he has something the board will approve.

A motion was made by Peter, seconded by Angela, to continue the public hearing on this project to January 24 2023, at 5:10 PM. Roll Call Vote: Angela -aye, Fred- aye, Peter-aye, and Whit -aye.

Map 43 Lot 10/80 Little Homer's Pond Road: a public meeting under the requirements of G.L. Ch.131 § 40, as amended, and West Tisbury Wetlands Protection Bylaw and regulations, to consider a **Request for Determination of Applicability** filed by Schofield, Barbini & Hoehn, Inc., on behalf of S. Fain Hackney, Trustee of the Lot 3B West Tisbury Realty Trust for a determination as to whether selective clearing of trees to enhance an existing view channel is subject to the jurisdiction of the Wetlands Protection Act and/or the West Tisbury Wetlands Protection Bylaw. The project location is 80 Little Homer's Pond Road.

Doug Hoehn and Joe Wahler presented this request. The applicant is planning to relocate an existing road that will be abandoned. The new road which will serve this lot and lot 19, will pass a stand of 6 black oak trees and one oak stump that sit in front of a grassland meadow. The existing conditions site plan shows the location of the trees and the previously mowed sandplain grassland area. Bartlett Tree Experts submitted a written assessment of the condition of these trees dated December 14, 2022 that these trees are in declining health. Based on this assessment, the owners would like to flush cut these trees to open the view. The trees and a small portion of the new road are within LSCSF. Currently, there are no plans for a house on this lot.

There was a brief discussion regarding the road. It was determined that because the old road is being abandoned and restored, it was acceptable to have the new road travel through the outer buffer zone for a short distance.

Peter made a motion, seconded by Angela to issue a Negative Determination that while this work is within the Buffer Zone under the Bylaw, the work does not require the filing of a Notice of Intent. The trees are to be flush cut. Roll Call Vote: Angela -aye, Fred- aye, Peter-aye, and Whit- aye.

Map 43 Lot 13/ SE79-447: a public hearing under the requirements of G.L. Ch.131 § 40, as amended, and the West 5:55 Tisbury Wetlands Protection Bylaw and regulations to consider a **Notice of Intent** filed by Schofield, Barbini & Hoehn, Inc., on behalf of Isabelle Lew, Trustee of Miss Ollie's Beach Nominee Trust, for a project to demolish existing structures located within the flood zone and construct a new 6,100 sq. ft house, garage and shed, install a swimming pool, driveway, septic system, and landscaping and to perform associated site work within the Buffer Zone to Land Subject to Coastal Storm Flowage (LSCSF). The project location is **139 Little Homer's Pond Road.**

Doug Hoehn and Mary Ann Thompson are the applicant's representatives.

This is a 13.4-acre lot with a house, pool, stand-alone wine cellar, and tennis court. The existing structures except the wine cellar will be demolished. Even though the existing structures are approximately 950 feet from the ocean, the flood elevation wraps around and passes through a portion of these structures. There is a wetland adjacent to Little Homer's Pond. All of the project is outside the Buffer Zone to this pond.

Doug has been in touch with NHESP. The comment letter is forthcoming. They met with the Planning Board on 9th. The Planning Board did not sign off on the project as they are waiting for the Building

Inspector to sign off on the square footage calculations done by the architect to determine if a special permit is required under the big house bylaw. By the architect's calculations, the structures do not exceed what is permitted under the bylaw.

Mary Ann Thompson, the applicant's architect, reviewed the landscape plan. The new structures have been moved back approximately 70 ft from the FEMA Flood Zone elevation. By doing so, they will avoid having to rebuild according to the Building Code requirements for construction in the flood zone. Under the local bylaw, a portion of the new construction is within the first 50 feet of the Buffer Zone to LSCF and the balance is in the outer Buffer Zone or outside it.

Plans for landscaping include restoration of the footprint of the existing structures with native, drought tolerant fescue grasses. On the inland side of the house there will be gardens that have been designed by Gardens of Eden using a drought tolerant native palette. The pool is on the south side of the house. They are planning mown lawn around the pool. Along the pool fence there are gardens. The rest of the site will use the same vegetation as the surrounding protected sandplain grasslands.

Commissioner's Comments/ Questions:

Discussion centered around reducing the limit of work and revising the landscaping plan.

Maria pointed out that the limit of work is way below elevation 11 and it looks like they are proposing to change the vegetation to the east of the new house. The board typically requires the limit of work line to be pulled in once any demolition is done. It is important not to lose the vegetation in this area as it serves to slow down flood waters and prevent flood damage and reduces the ability of the land to absorb flood waters.

Peter said he would be in favor of tightening up the limit of work around the entire project especially toward the resource areas. The area to the east is pretty wooded and below the flood elevation.

Maria asked if there will be underground irrigation. None is being planned.

Angela commented on the proposed plant listing. She recommended replacing the Butterfly Bush (*Buddleia davidii*) which is not a native plant and considered invasive in neighboring states. The other plant that is not native is the Wild Indigo (*Baptisia tinctoria*). There is a yellow variety that is native. Mary Ann said she would ask the landscaper to work with the board on the plant selection. The applicant will submit a plant list for the landscaping plan.

Mary Ann offered to keep the construction limit of work 8 feet off the existing house and then readjust it accordingly after the demolition is complete and not to change the vegetation on the east side of the new construction. Maria said the goal is to keep vehicles, stockpiled soils, and materials away from the resource areas.

Fred asked about the size of the house in relation to the big house bylaw. Mary Ann explained that based on their square footage calculations, the house is in compliance, but they are waiting for a sign off from the Building Inspector. Fred asked if there is anything they can do to reduce the size of the house. Doug reminded that they are before the Commission for matters related to the wetlands protection regulations and the proposed house is mostly outside the Commission's jurisdiction. Mary Ann said they are in compliance with the big house bylaw, but that it is a moral issue. She agreed to look at the size of the house again.

Maria suggested they look at pulling the garage out of the first 50 feet of the buffer zone to LSCSF and the same with one wing of the house. She noted that the FEMA flood maps are based on historical data and not on sea level rise projections 20, 30 and 50 years out. They will revisit shifting the location of the structures to the north.

Peter summarized. The existing house being demolished and moved inland addresses the issue of managed retreat and while the new house is still large, given that they have agreed to make some changes to the plan, he recommended the hearing be continued to allow the applicant to submit revised plans.

A motion was made by Peter, seconded by Fred, to continue the public hearing on this project to January 24, 2023 at 5:40 PM. Roll Call Vote: Angela -aye, Fred- aye, Peter-aye, and Whit -aye.

Administrative:

FY2024 Filing Fee Warrant Article: A motion was made by Fred, seconded by Peter to approve this warrant article as presented. Roll Call Vote: Angela -aye, Fred- aye, Peter-aye and Whit -aye.

2022 Annual Report: A motion was by Angela seconded by Fred to approve the Annual Report as presented. Roll Call Vote: Angela -aye, Fred- aye, Peter-aye and Whit -aye.

Maps 8 & 10 Lots 22.12 and 22.14 and 194.2/165 & 200 Merry Farm Road and 81 State Road/John Presbury Norton Farm and Wompesket Preserve/ SE79-304/Certificate of Compliance: The Commission determined that sign off on this project should be tabled given the condition of several of the boardwalks throughout the property. The Land Bank is planning to file a new Notice of Intent to upgrade these boardwalks and add at least one new trail.

Map 5 Lot 1/SE79-401/210 Obed Daggett Road/Sheriff's Meadow Foundation: A motion was made by Angela, seconded by Fred to approve the Certificate of Compliance. Roll Call Vote: Angela -aye, Fred- aye, and Whit- aye. Peter abstained.

Map 5 Lot 3/SE79-397/175 Obed Daggett Road/ Sheriff's Meadow Foundation: A motion was made and seconded to approve the Certificate of Compliance. Roll Call Vote: Angela -aye, Fred- aye, and Whit- aye. Peter abstained.

Map 35 Lot 1.10/ SE79-252/ 69 Pond View Farm Road: A motion was made by Peter, seconded by Angela to approve the Certificate of Compliance. Roll Call Vote: Angela -aye, Fred- aye, Peter - aye., and Whit- aye.

There being no new business to discuss, the meeting adjourned at 7:30 PM.

Respectfully Submitted,

Maria McFarland
Board Administrator
APPROVED
JANUARY 24, 2023