

WEST TISBURY  
CONSERVATION COMMISSION  
MINUTES OF MEETING  
January 24, 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, Peter Rodegast, and Michael Turnell

**Absent:** Geraldine Brooks and Donna Paulnock,

**Staff Present:** Maria McFarland

**Also present for all or part of the meeting:** Michael Barclay, Doug Hoehn, Jason Hoehn, Elaine Florio, Noah Froth, Will McKinney, Deana McDermott, Ally Moore, Max Moore, Christine Robins, George Sourati, and Jeffrey Vogel

Whit Griswold called the meeting to order at 5:05PM.

**Minutes:**

The minutes of the January 10, 2023 meeting were approved as revised. Roll Call Vote: Angela -aye, Fred– aye, Michael – aye, Peter–aye, and Whit– aye.

**Continued 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 ( LSCSF), 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:

- Construction of a 2 car 484 sq. ft. garage on the east side of the house;
- A reconfigured entry way and parking area within an area previously approved as a parking area under Order of Conditions DEP File SE79-435;and
- Installation of a 1,071 sq. ft ( 14.5’x 50’) lap pool with overflow basin, spa, associated pool equipment, and a smaller set of stairs within the Buffer Zone to LSCSF.

These changes remove all new construction within LSCSF and reduces 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 previous meetings by both Commissioners and abutters. Discussion centered on the remaining issues.

Fred asked which elements of this project are still within the Commission's jurisdiction. George responding by listing the wetland resources not impacted by this project including; coastal beach coastal bank, bordering vegetated wetlands, or the buffer zone to any of these resource areas. All work is within the Buffer Zone to LSCSF( jurisdictional only under the local bylaw) as noted above. There is also 102 sq. ft of work within Priority Habitat that has been approved by NHESP.

Maria explained that the Board chose not to apply the provisions of the Bylaw Regulations regarding work in the first 50 ft of the Buffer Zone to LSCSF for this project. In George's opinion the regulations are a bit unclear but he is not disputing whether they apply to this project. Regardless, the Commission previously approved construction of the house within the No-Build Zone under the Bylaw without a waiver.

Fred said his concern was not how much things have been moved around but ultimately how much the board is protecting the environment by keeping buildings from being built to their maximum. size. George said at least 3 board members asked the applicant to make these changes and they have complied with that request.

He feels that they have done everything they can do to change the project. If some members don't want to approve any projects within the Commission's jurisdiction then there is no need to do a filing to come before the board.

Whit followed up on Fred's comment by saying that the Commission members are volunteers trying to do their best by State and Towns wetland bylaws and by the environment of the island and specifically this vulnerable low-lying area. The Commission is constantly dealing with applications that push the boundaries to the absolute limit and a little more. It is frustrating and insulting. Whit went on to say that he has a lot of respect for the applicant's representatives that are doing what their clients want by asking for as much as possible with the intent of negotiating with the Commission. Whit said the Commission doesn't negotiate. Rather, the Commission is trying to enforce the regulations.

Peter commented that given what has already been approved, the project has been squeezed down as much as possible.

Michael Turnell stated that he appreciates everything that has been done to scale back the project but the Commission still feels like the proposal pushes the limits.

Angela said it has been a balancing act. The applicant has tried to stay within the original limit of work as much as possible.

Alley Moore echoed all the sentiments previously stated. In his opinion the property owner should be present at these hearings so that the owner can hear directly from their neighbors.

George responded to Max Moores comments. He stated again that they told the board there would be a garage proposed but they left it out of the first application because they didn't know how it would counted

under the big house bylaw. In response to Alley Moore's comments, George pointed out that there are three representatives of the applicant present. The owner would have attended if he was available.

Three commissioners told the applicant to rework the project which they did twice. No work is proposed within LSCSF.

Public Comment: Alley and Max Moore, 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.

Whit closed the public hearing. A motion was made by Peter, seconded by Angela to approve this project as revised. Discussion on the motion: Maria responded to procedural questions related to voting for or against this project. Roll Call Vote: Angela -aye, , Peter-aye, and Whit -aye. Fred – nay. Motion carried 3-1. Michael was not eligible to vote.

Special conditions will include adjustment of the originally approved limit of work to include the new pool and garage and accommodate the overdig. All disturbed areas to be revegetated. A pre-construction site visit will be required for the pool and the garage. Restoration conditions exist in the original Order. Standard conditions for pool maintenance will be applied.

**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 Jeffrey Vogel were present.

The revised project consists of the demolition of the existing structures and construction of the new structures described in the above meeting notice except that the majority of the square footage of the new structures has shifted from the No-Build Zone to the Outer Buffer Zone. No new landscaping will be performed within LSCSF.

No work or landscaping is proposed within Estimated or Priority Habitat beyond the annual mowing allowed under the Conservation Management Permit issued by NHESP. The limit of work line has been pulled in so that no new landscaping work will take place within LSCSF except restoration landscaping for the footprint of the original structures. The landscaping will mimic the sandplain grasslands that already exist on this parcel.

Once the demolition is complete the limit of work line will be pulled in to approximately 15 ft off the foundation of the new building.

Doug mentioned that the Planning Board signed off on the size of the house under the big house bylaw. Most of the new house is outside the Commission's jurisdiction.

The landscape plan and planting inventory was reviewed again. No new landscaping will be performed within LSCSF. The two non-native plant species identified at the last meeting will be removed and details

on types of ornamental grasses and grass seed mix will be required to be submitted with the final landscape plan.

Commissioner's Comments/Questions:

Michael asked if the pool house can be articulated differently to pull it further out of the Buffer Zone. Jeff explained that shifting it north would put the pool house into the 50 ft. zoning setback requiring a special permit.

Angela asked about the size of the equipment storage area and asked if it can be pulled in a little. Jeff replied that the area is 8'X20' and will hide compressors for the air conditioning units. The units will be mounted off the ground.

Peter asked if any work is proposed on the existing 6'x 16' wine cellar. Jeff described it as a short semi-recessed shed with a staircase to an underground room. It doesn't currently have power. Currently there are no plans to do any renovations.

Peter asked if the top soils from the excavation for the new house foundation could be used to fill in the old foundation. Jeff said there may not be enough material, but to the extent possible they could do that.

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

Fred made a motion, seconded by Peter to approve the project as revised. Roll Call Vote: Angela -aye, Fred- aye, Peter-aye, and Whit -aye. Michael was not eligible to vote on this project.

#### **New Business:**

**Sheriff's Meadow Foundation/ Guided walk over the Goethals Conservation Restriction at 265 Lambert's Cove Road Map 3 Lot 1.1** Noah Froth of Sheriff's Meadow was present. The walk will be held on May 20,2023 and will accommodate 20 people with parking at the Lambert's Cove Beach parking lot. The CR requires approval by the Commission. For use of the parking lot, Noah will speak with the Parks and Recreation Committee. Short trail that ends up on the path to the beach.

Peter took over the chair while Whit deals with internet connection issues.

A motion was made Whit, seconded by Angela to approve this request. Roll Call Vote: Angela -aye, Fred- aye, Michael - aye, and Whit -aye. Peter abstained.

**Joe Walker Road/ Removal of Vegetation within Priority Habitat:** Maria reported that while traveling down Joe Walker Road on January 19 for a site visit at 139 Little Homer's Pond Road, she and Peter observed the clearing along the road. This road is not within Conservation Commission jurisdiction but Maria was concerned that this area might be within Priority Habitat under the MESA regulations. She confirmed that this area is within NHESP jurisdiction and emailed Jesse Leddick at NHESP to see if NHESP had approved the clearing. They had not. NHESP contacted Perry Ambulos, the Joe Walker Road Association's manager. An after the fact application was filed for after the fact approval of 1.3 acres of trees and understory to widen the road. Conditional approval has been granted. The most recent email stated that there are no concerns about state listed protected species and anticipate issuing a No-Take determination. The email was an interim authorization to continue limited clean up of the area as described in the application. No action is required.

Fred asked how the Commission can expand its authority to weigh on alterations such as this. Maria explained that Priority Habitat is not covered by the Wetlands Protection Act and therefore, while the Commission may comment on a project they object to, they can not approve or deny this kind of work.

**Administrative:**

Map 36 Lot 18/ SE79-416/70 Taffy’s Field Road/ House demolition and rebuild/ landscaping/ Tabled

**Correspondence:**

In: Notice of Intent/ 80 Plum Bush Point Road/ Reconstruct and expand pool

Out:

- Determination of Applicability: / Map 43 Lot 10/ 80 Little Homer’s Pond Road
- Map 5 Lot 1/SE79-401/210 Obed Daggett Road/Sheriff’s Meadow Foundation/Certificate of Compliance
- Map 5 Lot 3/SE79-397/175 Obed Daggett Road/ Sheriff’s Meadow Foundation/Certificate of Compliance
- Map 35 Lot 1.10/ SE79-252/ 69 Pond View Farm Road/ Certificate of Compliance/ Dock that was never built

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

Respectfully Submitted,

Maria McFarland  
Board Administrator  
APPROVED  
FEBRUARY 28, 2023