

WEST TISBURY
CONSERVATION COMMISSION
MINUTES OF MEETING
October 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: Michael Barkley, Fred Barron, Geraldine Brooks, Whit Griswold, Chris Lyons, Peter Rodegast, Ernie Thomas, and Michael Turnell,

Absent: Angela Luckey

Staff Present: Maria McFarland

Also present for all or part of the meeting: Paul Caval, Chris Cotterill, Rebecca Cournoyer, Brandon Faneuf, Kristen Geagan Harrison Kisiel, Sam Houghton Thomas Humphrey, Deana McDermott, Paddy Moore, Bill Plapinger, Chris Robins, Julie Russell, Rick Serpa George Sourati, and Nora Wilcox

Whit Griswold called the meeting to order at 5:02 PM.

Minutes: A motion was made by Geraldine, seconded by Ernie to approve the minutes of the September 26, 2023 meeting as revised. Roll Call Vote: Fred-aye, Geraldine,-aye, Ernie -Aye, Michael – aye, and Whit- aye. Peter abstained.

Public Hearings

Map 7 and 4 Lots 1, 3, 4 and 1 /SE79-458: 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 the Martha's Vineyard Land Bank for a project to implement the James Pond Preserve Management Plan which will include, but is not limited to the following work within Land Subject to Coastal Storm Flowage (LSCSF), on a coastal beach, coastal bank, coastal dune, a Bordering Vegetated Wetland, land within Estimated and Priority Habitat, and the Buffer Zone. Work within the Buffer Zone to create new trails, conversion of lawn to native grasslands, removal of black locust and small diameter trees to open the understory. Work in the Bordering Vegetated Wetland includes 50 feet of raised boardwalk with light penetrable decking and kayak rack to be used seasonally. Dune restoration using snow fencing. Placement of a sand beach mat over an existing dune trail installed and removed seasonally. A set of aluminum adjustable stairs over a dune and coastal bank. Installation of a boat slide in James Pond. Deconstruction of an 84 sq. ft well house. The project location is 283,285, 287, and 289 Lambert's Cove Road, respectively.

Whit disclosed that he and his family have an easement over a portion of the Land Banks property. He will conduct the hearing, but will abstain from voting.

Julie Russell, Land Bank ecologist presented the proposed project to implement the management plan for the James Pond Preserve. At the site visit on October 4, Commissioners looked at different aspects of the project which Julie reviewed.

NHESP identified areas that will need to be protected so there will not be any impact to Piping Plovers (*Charadius melodus*) or Sea-beach Knotweed (*Polyganum glaucum*). The NHESP letter dated October

6, 2023 set 4 conditions under 310 CRM10.37 including a time of year restriction, protection of state-listed species, duration of the authorization by NHESP, and notice requirements.

Invasive species vegetation management will be achieved through the restoration of lawns to native grasslands. The Land Bank will remove black locust which will be used to build the boardwalk as it is rot resistant. Honey suckle and bittersweet will be managed by using goats. No herbicides will be used to manage invasive species.

A boat slide will be placed on the James Pond shore line for launching kayaks, and canoes. The Land Bank would like to install a raised boardwalk made from the black locust and pressure treated wood which will be placed within the bordering vegetated wetland. There will be grating on the decking for light penetration. The entrance to the pond is rocky.

A Moby mat will be placed on the beach and over the dune and will connect to an aluminum staircase to access the beach at Lambert's Cove. The plans show an area where seasonal dune management will occur by placing a series of zig zag style snow fencing as was done at the public beach next door.

The Land Bank is planning on using a reservation system that they started using at other properties during Covid. It will restrict the number of cars that can park on the property at any given time to 12 between the hours of 10 am and 6 PM, May 1 to October 15.

Commissioner's Comments/ Questions:

Geraldine and Peter both asked if it was possible to monitor the number of people bringing kayaks and canoes from the parking area to the pond in order to determine if there is enough foot traffic through the bordering vegetated wetland to warrant the raised boardwalks. (Raised boardwalks are permissible as a limited project under 310 CRM 10.53 (3)(j) as noted in the DEP file number letter.) The Land Bank will monitor the condition of the access to the boat ramp for 2 years.

There was no public comment.

After discussion among the members and Julie, the public hearing was closed.

A motion was made and seconded to approve this project as presented and conditioned. Roll Call Vote: Fred-aye, Geraldine-aye, Ernie -Aye, Michael – aye, and Peter -aye. Whit abstained.

Map 39 Lots 7&8/SE79-457 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 to renovate an existing camp. The project consists of elevating by 8-12 inches and renovating an existing 690 sq. ft. camp into a detached bedroom and studio including the construction a 20 sq. ft. addition, renovation and/or relocation of decking, a porch addition, installation of a septic tank, pump chamber, piping and trenching, removal of 2 existing sheds, and the abandonment of an existing driveway. The work is within Land Subject to Coastal Storm Flowage and the Buffer Zone to a coastal bank. The project location is 216 f/k/a 208) **Middle Point Road** owned by Middle Point Bend, LLC.

Presenting for the applicant was George Sourati and Michael Barkley. Rick Serpa, the building contractor was also present.

NHESP has signed off on this project.

The cottage is more than 100 years old. The project was presented to the Zoning Board and the Historic Commission. Both thought it did not need referral to the MVC because there is not more than 25% of the outside of the building including the roof being replaced. There is a net increase of 4 square feet.

The flood elevation is 10 at this location. The majority of the structure is just below the 100-year flood elevation. The camp which is mostly in the Flood Zone will be raised by 8-12 inches. The new crawl space will have flood vents in compliance with the state and local building code and the local bylaw for building in a flood zone. The bedroom will take up 400 square feet and the studio will be 350 square feet. The two rooms are not connected by an interior doorway. A 20 square foot addition will be added to the house over a portion of the existing deck and will become living space. The Look out which is detached will be redone and affixed to the building. They are going to remove a portion of the existing deck for the addition and also add a small portion to it to square off the deck. The deck has a 45-degree angle to it and this will square it off. Portion of the deck being removed will be 25 square feet. Entry way will be made 8 square feet larger. An interior fire place will be removed as will the outhouse and a shed.

Commissioner's Comments/ Questions:

Whit asked about the columns that were mentioned at the site visit. Chris said there is a column on all 4 corners and they go 4 feet deep. The crawl space portion of the foundation will have flood vents under the detached bedroom. Michael will submit the architectural plans.

George said it was better to let the water flow under the house so they abandoned the slab on grade under the detached part of the structure. There will be sump pump installed in case the flow water should flood the basement. The house will be raised rather than shifted sideways while the foundation is constructed.

Geraldine asked if the new bathroom will be linked to the denitrifying septic system. It is. George replied that the new system is elite and incorporates nitro technology. They will discontinue using the outhouse which dumps directly into the ground. There will not be a kitchen. The pipe connecting the tanks to the leach field will be out of the flood zone.

Fred asked if it will be occupied year-round. No. It will be heated with a mini split. Electricity will be supplied by the solar panels on the main house on lot 8.

Public Comment: Paddy Moore asked when the flood maps were last updated. George answered 2016. Paddy is concerned about the increasing flood elevations in this area. Even though the plans are based on the most recent data, but in her opinion they "don't tell the full story." Paddy and George talked about the elevation the pond gets to before it is opened. She wondered if the property owner really understands the issue.

Paddy also asked about lighting. She was told that the Commission doesn't have anything in the local bylaw that prohibits lighting but there will be something in the order about lighting. Whit said he understood Paddy's concerns and hopes that the property owner also understands the issues.

Ernie asked if the house has ever experienced flooding. Paddy didn't know and George said no. Maria said that since the revetment was reconstructed there is now a vegetated border that will serve to slow down flood waters.

Geraldine commented that this project has been presented incrementally. Had the Commission known about the garage, pool and this renovation, the Commission would have referred the project to the MVC. George pointed out that he made it clear when they presented the project to redo the house that they were going to come back to the Commission at a later time for all three of these structures.

There was a discussion about conditioning maintenance of the site during construction, restoration after construction, the lighting and changes to the project plans. George said they have to file the requirements in the building code for lighting.

The current access road to the camp will be abandoned. This was previously approved. All the vegetation being stored on lot 7 will be relocated back to lot 8 before this project starts. The amount of excavation will be kept to a minimum

There being no other public comment, the public hearing was closed. A motion was made and seconded to approve this project as presented and conditioned. Roll Call Vote: Fred-aye, Geraldine-aye, Ernie - Aye, Michael – aye, Peter -aye and Whit- aye.

Old Business

274 Indian Hill Road/ Enforcement Order: The purpose of this meeting was supposed to review and accept the restoration plan required by the Enforcement Order to be submitted on or before today. Mr. Faneuf, The property owner's consultant has been ill so he was unable to submit a more detailed restoration plan. A restoration plan was submitted by the landscaper late this morning.

Today the Commission learned that the abutters filed an appeal to DEP requesting a resource delineation to be done. It was noted that the appeal attached the Enforcement Order and referenced DEP file SE 79-395(2109 OOC)which expired in May 2023, and DEP file SE79-456 (2023 filing) for which no Order of Conditions has been issued. The abutters are apparently appealing the Commissions decision to use the wetland delineation done by ESI in 2023 for purposes of determining the violations. According to the NOI filed for SE79-456, there are no current violations in the Series A wetland or its buffer zone. The only violations appear to be in the Buffer Zone to the Series B isolated wetland. The series A wetland would fall under DEP's purview, but the isolated wetland does not.

Reid commented that if the neighbors are going to challenge Brandon's and Julie Fisk's delineations it doesn't make sense to finish the site plans and start doing the restoration. If Brandon's delineation doesn't stand then the work to be done could change.

Brandon said he was confused because one can file a Request for Determination (RDA) on any piece of property and not be the owner, but to request and resource delineation, an Abbreviated Notice of Resource Delineation (ANRAD) or a Notice of intent one has to have the owner's permission to do that. In his opinion there isn't any thing to ask a superseding ANRAD or Order of Conditions for. There isn't anything to appeal yet. Maria walked through how the appeal is set up. Enforcement Orders have to be appealed to Superior Court.

Mr. Plapinger said that the appeal is based on the statement in the attachment to the enforcement order that says the Commission now accepts this plan as the delineation for 274 Indian Hill Road. That determination is what they are appealing. They are seeking a superseding order of resource area delineation. Not an appeal of the enforcement order

Reid and Brandon would like more time to submit more details for the restoration plan and the Commission would like more time to review what was submitted. Also, given the appeal it was decided to wait to see what DEP will say and or do with respect to this appeal. No action was taken.

(Whit left the meeting at 6:35 PM)

Map 3 Lot 9.22/ SE79-442/ Bartimus Luce Road: Change of project plan: The Order of Conditions requires the applicant to submit revisions to the project plan in order for the Commission to decide if the changes are substantial enough to warrant the filing of a new NOI or if they are de minus.

Maria displayed the revised site plan and photos from her site visit with Sam Sherman, the architect. The Order of Conditions was for the construction of an addition to the deck and the dining room. The project being in the last 5-10 feet of the Buffer Zone to the Coastal Bank. The new plan is to demolish the house and build it outside of the Buffer Zone and outside of the Riverfront Area. The deck is the only portion of the structure to be demolished within the last 5-10 feet of the buffer zone. The deck is located on cinder blocks and wooden posts at the corners.

There was no discussion. A motion was made and seconded to accept the revised plan prepared by Vineyard Land Surveying dated February 23, 2023 as the new plan of record and that a new Notice of Intent is not required. Roll Call Vote: Fred-aye, Geraldine, Ernie -Aye, Michael – aye, and Peter -aye.

Map 26 Lot 12.15/ Management Plan for Nat’s Farm/Conservation Restriction between Misty Meadows and the Town under the care of the Commission, on land owned by Sheriff’s Meadow Foundation (SMF).

Kristen told the Commissioners that there are 3 Conservation Restrictions (CR) on Nat’s Farm. SMF owns the land, the Town holds the CR and Misty Meadows is the lessee. They have updated the management plan for Misty Meadows. Misty Meadows plans to put a tent on the southern portion of the property. They are installing a mindfulness trail as shown on a plan Kristen shared with Commissioners. There is a kiosk, observation stands, 2 horse burial sites, event parking, horse paddocks, and a coop for chickens and ducks.

Peter stated that he sometimes works for SMF so that he will not be voting on this matter.

A motion was made by Fred, seconded by Geraldine to approve the plans as presented by Kristen. Roll Call Vote: Fred-aye, Geraldine-aye, Ernie -Aye, and Michael – aye, Peter abstained.

There being no new business to discuss, the meeting adjourned at 7:02 PM.

Respectfully Submitted,

Maria McFarland
Board Administrator
APPROVED
10/24/2023