

WEST TISBURY
CONSERVATION COMMISSION
MINUTES OF MEETING
October 22, 2019

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

Absent: Michael Turnell

Staff Present: Maria McFarland

Also present for all or part of the meeting: Kristen Geagan, J Paul McLean, James Moffatt, Josh Scott, Reid Silva, Joan Smith, and Mick Walsdorf

The meeting was called to order at 5:00 P.M. Tara Whiting-Wells, Chair presiding.

Minutes: Map 39 Lot 2.1/SE79- 392: Maria asked for clarification of the board's intention with respect to pruning in the Buffer Zone. At the meeting, Greg Milne, the applicant's representative was asked and confirmed that they were asking to prune all vegetation in the Buffer Zone to a height of 5 feet. Typically, the board will only allow pruning of vegetation within the view channel. The members present at the last meeting confirmed that it was their intention that the pruning of vegetation would only take place within the view channels. Based on this clarification, the minutes of the October 8 meeting were approved as revised. Peter and Tara abstained.

Public Hearings;

Map 12 Lot 13/ SE79-371: 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 **request to amend Order of Conditions (DEP File #SE79-396)** filed by Vineyard Land Surveying & Engineering, Inc, on behalf of Berry Indian Hill LLC for additional work on a project located at 371 Indian Hill Road. The additional work consists of repairing an existing stone wall, adding a section of stone wall, removing invasive plants, and extending fencing within the 10' buffer strip to Isolated Land Subject to Flooding.

Josh Scott updated the board on the original work that was approved and completed. Fencing was installed and stone walls were replaced along and outside the 25 foot No-Disturbance Zone. The original project plan dated January 17, 2019 revised to February 19, 2019 did not include a pasture area adjacent to the northwest corner of the isolated wetland that they would like to restore. The type of work is the same: repair of existing stone walls, extension of the fencing to keep livestock out of the wetland land. In addition, the owner would like to remove invasive plants and construct a new section of stone wall to enclose new pasture land.

Josh offered to plant 15 native *Clethra alnifolia* (Summersweet Clethra) to replace the invasive *Ligustrum sinense* (Chinese Privet) in the location shown on the plan.

They would also like repair the stone walls in the inner Buffer Zone during the first phase. The owner would like to know if they could also repair the stone walls in the Resource Area.

Maria suggested the wetland area be monitored to determine if there is a time of year when the area retains water and if it supports vernal pool habitat. Josh said the disturbance would be minimal as they only need access to the wetland area for one man.

Commissioner's Comments/ Questions:

Tara said she did not see the need to plant in the No-Disturbance Zone after removal of the Chinese Privet. Josh said the owner offered to do the planting but would prefer not to. Josh withdrew this request.

Tara did not feel it was necessary to repair the stone wall in the Resource Area until we have a better idea of how the wetland functions.

Peter said he had no issue with the new stone walls within the Buffer Zone.

It was noted that repairing and maintaining existing stone walls is an exempt activity in the Buffer Zone under both the Act and the Bylaw.

John recapped that the Bylaw regulations allow for repairing stone walls in the Buffer Zone, but that new stone walls require approval.

Peter said he was concerned if fertilizers were used as part of the creation of the pastures because eventually those fertilizers would end up in the Resource Area. Josh responded that the paddock areas were seeded with Rye, Fescue Orchard grass and White Clover and that they only put down lime.

Kristen Geagan was asked if Sheriff's Meadow Foundation (SMF) was ok with this additional work. She said they are fine with it. Asked if Kristen had any thoughts about work in the wetland, she replied that if it is a vernal pool SMF would not want any work to be done but if it is an area that only floods for a day and doesn't function as habitat then it wouldn't matter.

Peter made a motion to approve the amendment to include all the proposed new work except repairing the stone wall within the Resource Area. The new work consisting of new pasture, extension of the fence, removing invasives and new stone wall at the outer limit of the Buffer Zone was approved. The project plan will be revised per this discussion.

The discussion centered on the need to restore the stone walls within the Isolated Wetland. It was suggested that the wetland be monitored and documented to determine when there is water in this wetland and if it supports vernal pool habitat. After the discussion, Josh withdrew the owner's request to rebuild the stone walls within the isolated wetland.

Members agreed that the stone wall within the inner Buffer Zone can be repaired. Josh will have Reid revise the project plan as discussed.

There was no public comment. The public hearing was closed.

A motion was made and seconded to approve the request to amend the Order of Conditions to complete the work detailed above except that no work is permitted within the Resource Area. All in favor.

Map 15 Lot 10/SE79-407: 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 Vineyard Land Surveying & Engineering, Inc, on behalf of Bruce L. Levett, for a 321 square foot addition to a single-family dwelling located at 60 Indian Hollow Road.

Reid presented the owner's plan to construct an addition to the kitchen shown as the hatched area on the plan. The addition is 28 feet from the top of the bank and 19 feet from an existing dog pen fence. The foundation will be frost wall construction done with a mini excavator.

The resource area within 100 feet of the work is an intermittent drainage way with a defined inland bank. Intermittent drainage ways are not resource areas in and of themselves, but there is a distinct channel and a defined bank that needs to remain stable to contain flow when there is surface water and are therefore presumed significant for storm damage prevention and flood control. Otherwise the area is lawn and landscaped area.

Reid said the channel is "bone dry" 98 percent of the time. At the site visit, Mr. Levett told members that if there is a 3 inch storm event it will flood. There is also an isolated wetland that is within 100 feet of the work area but it on the opposite side of the house. No new landscaping is proposed.

The project plan will be revised to show a limit of work 12 feet off the building consisting of silt fencing backed by wooded construction fencing.

There was no public comment. The public hearing was closed. A motion was made and seconded to approve the project as presented. No pre-construction site visit. Excavated materials will be trucked off site.

The vote on the motion was 5-0-1. Whit abstained.

Map 5 Lot 2.3/ SE79-408: 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 Vineyard Land Surveying & Engineering, Inc, on behalf of Cedar Tree Farm LLC for a project to demolish and remove an existing single family dwelling and reconstruct a new dwelling of similar size in the general location of the existing house. The project is located at 209 Obed Daggett Road.

Reid presented this project. Cesspool was upgraded to a Title V system earlier this year.

Based on conversations with their architect, the applicant would like to replace the existing camp rather than renovate in the existing footprint.

Reid calculated that this will be 150 feet of building additional and the decking will add 208 square feet.

The new house will sit on pre-fabricated concrete piers. Access is limited so a frost wall foundation would be difficult to construct. The footings will be dug with a mini excavator. Pre-cast concrete footings will be used the site is too tight to get a concrete truck close enough to have a foundation for crawl space.

The house could be moved back by removing the retaining wall but it would cause more disturbance and be more expensive. The vegetation is dense and tight to the camp on three sides the house.

The project description calls for planting a lawn, ground covers, and any landscape planting beds around the house. A landscape plan was not submitted.

Commissioner's Comments/ Questions:

Maria asked if this project is within the first 100 feet of the Shore Zone under the Zoning Bylaw. She recommended that the applicant get a determination from the Building Inspector as to whether this house is in the Shore Zone and if the house is demolished would the ZBA require the owner to move the house.

Reid asked if the board was concerned about the expansion of the house toward the Resource Area. Tara responded that it is hard to say if moving the house back would result in more disturbances.

John said he had a real concern about expanding a house in the Buffer Zone.

Peter asked if there would be less impact by removing the retaining wall and pulling the house back and leaving the Buffer Zone undisturbed. Reid said there a significant amount of clearing on this property already. He suggested that the board could ask for restoration of previously mown areas in exchange for the new Buffer Zone disturbance.

Binnie asked if the deck could be placed on the side of the house. Reid replied that the location of the deck will provide a view to the pond.

Reid said the conservation issues override the zoning issues. He wants to be sure of the board is comfortable with the project before he goes to the Building Inspector. Reid argued that the project is not in the shore zone because the property is not adjacent to wetlands that flow into a coastal great pond. Reid agreed that if the house is in the shore zone of the coastal district under zoning then the project will need a special permit.

Whit asked if the house could be oriented a different way. Reid answered that the additional clearing in the Buffer Zone to put in a deck that is above ground is insignificant compared to moving the house back into the hill. Whit replied that he was suggesting simply rotating the house.

Peter said that Reid has offered restoration of previously cleared areas with the No-Disturbance Zone in exchange for new alteration in the Buffer Zone

Tara said now that the board has an application before it, they can ask for restoration of previously disturbed areas in the Buffer Zone.

There was lengthy discussion about what is requiring restoration under the Bylaw. It was clarified that the Commission's authority to require restoration of previously disturbed area comes under Section 10.53 of the Act.

Public Comment: The owner Joan Smith said they are adding a small amount of space. It was noted that if the house was not expanded seaward the deck could be pulled back out of the Buffer zone. She was unclear if the project plan was accurate. Mrs. Smith will confirm the footprint of the new house with the architect.

A landscape plan should be submitted.

A motion was made and seconded to continue the public hearing to November 12 at 5:30 PM so that the footprint of the new house can be confirmed and Reid can check with the Building Inspector regarding zoning. All in favor.

Continued Public Hearing

Map 38 Lots 7.7 and 7.8/ Sarita Walker Road/ SE79-406: 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 Vineyard Land Surveying & Engineering, Inc., on behalf of Michael R. and Christine Walsdorf for a project located at Sarita Walker Road. The project consists of site work in the Buffer Zone associated with the construction of a single family dwelling, guest house, garage, and swimming pool all of which are located outside the Buffer Zone. Work within the Buffer Zone consists of site regrading, re-establishment of meadow lands, installation of a wood post and wire fence and construction of a stone retaining wall. Permission is also requested to brush cut two paths through the Buffer Zone and bordering vegetated wetland to Watcha Pond.

There were three reasons for the continuance of the public hearing; the width and location of the paths, grading in the Buffer Zone, and the location of the pool fence.

The original proposal was for 48 inches wide paths resulting in the permanent alteration of more than 5,000 square feet of Bordering Vegetated Wetland (BVW). Under the Wetlands Protection Act, this much permanent alteration of a resource area would require replication in another location on site. Reid said that rather than do replication, the paths have been reduced in size to be less than 30 inches wide with a total disturbed area of 480 square feet in the BVW. Under the WPA the board may approve a project that will alter up to 500 square feet of BVW without replication.

With respect to the grading they have removed the grading in the area of the pool and moved the limit of work fence to the edge of the Buffer Zone. The grading near the main house will remain.

The discussions centered on the need to have the pool fence extend so far into the Buffer Zone because it will be a barrier to wildlife movement and how much landscaping will be done within the Buffer Zone.

Reid introduced the property owner Mick Walsdorf.

Mr. Walsdorf said he and his wife bought the site as it is an extraordinary landscape. They plan to mow the meadow twice a year in order to keep invasives out.

Mr. Walsdorf then spoke about the concept for the landscaping plan. The pool fencing will be a 4 foot high black wire horse fence consisting of intermittent wood posts and a 2x2 grid mesh wire to replicate a number of fenced off horse areas in the neighborhood. One goal of the landscape architecture plan is for the house construction to be sitting in a post agricultural native meadow. The fencing and meadow are taking cues from the neighboring properties. He presented the board with initial concept plan and a catalogue of the existing wetland and upland vegetation.

Public Comment:

Commissioner's Comments/ Questions

John and Binnie asked why the pool fencing is placed so broad and far away from the pool. Mr. Walsdorf said the design intent is that the light profile fence will be masked on both sides by the meadow.

All of the existing meadow will be maintained except that there will be lawn between the structures.

Mr. Walsdorf said he was concerned about being required to maintain a linear 25 foot buffer strip because they would like to bring the wetland and upland plantings further into the site, but not in a 25 foot band. Put in place in the low lying areas idea is to pull the plants to enhance the wetlands.

Geraldine asked about the numerous paths shown on the landscape plan. Mr. Walsdorf said they are remnants of the initial concept plan.

Tara asked if ZBA has approved fencing this far away from a pool Geraldine thought they would if it was a complete boundary as this one does.

Mr. Walsdorf asked if he could move the fencing up the hill closer to the pool.

Tara asked how much square footage in the Buffer Zone the fence encompasses.

It was clarified that the Town requires a fence even though the State Building Code has changed to allow only a pool cover.

Mr. Walsdorf offered to take the pool fence entirely out of the Buffer Zone, to which Reid replied that this is a significant design consideration and as a practical matter the fence is not going to impede wildlife movement except toward the pool. Geraldine said the issue is habitat fragmentation.

Mr. Walsdorf followed up by asking if the board was willing to compromise. After a brief discussion it was agreed that the fence would be brought up the hill into the last 25 feet of the Buffer Zone.

Peter said it was good that the area was not going to be regraded and he was ok if the fence was pulled to the 75 feet mark.

The reduced size of the paths is ok although they should meander to the pond.

In the areas to be graded, the soils will be removed and stored and reused for restoration of the meadow.

Initially, Peter and John both said they were willing to wait on requiring a 25 foot no-mow zone at the edge of the resource area until a full landscape plan is submitted but upon further discussion it was decided that there should be no mowing in the No-Disturbance Area until the board reviews and approves the landscape plan.

Mr. Walsdorf said the landscape plan will not require significant work in the Buffer Zone. He would like to add plants that come from the catalog of the native plants on the site and to maintain the existing meadow to the limit that is currently maintained.

Geraldine asked if they planned to do invasive species removal work. Mr. Walsdorf would like to do that work but has no plans yet.

There was no public comment. The public hearing was closed.

A motion was made and seconded to approve the project as amended. The vote on the motion was 4-0-3. Voting in favor were, Brian, Donna, Geraldine and Whit voted yes. Binnie, John and Tara and abstained as they were not at the October 8 meeting.

New Business:

Map 5 Lot 1/SE79-401/210 Obed Daggett Road: Request for approval of minor change to bathroom/remove hazardous tree.

Peter recused himself from this discussion. Member reviewed photos. Kristen has become concerned about one tree that hangs over the house. They also would like to shift the new shed 5 feet closer to the wetland within an existing parking space. The shift is needed to be able to get from the parking lot to the house. As currently located, there isn't enough room and it is awkward to have a building so close to the entrance gate. Between the back of the shed and the parking lot is a parking space and vegetation.

A motion was made and seconded to approve to take down one tree hanging over the house and to shift the shed 5 feet. All in favor. A formal amendment is not required. A letter of approval will be mailed.

Climate change Committee: A motion was made and seconded to recommend Donna to serve as the commission's appointee to this committee. All in favor.

Old Business:

Map 3 Lot 91/ Path at Lambert's Cove Beach: Maria updated the board on the site visit with Greg Berman. He will send a more detailed report but in the meantime he recommends that a piece of snow fence at the bottom similar to other years, but also with a "zipper" pattern going up the ramp as we discussed on site. The zipper should accumulate more sand on the slope instead of letting it get all the way to the top. The board is ok with this proposal and is prepared to offer financial assistance to pay for the fencing. Also, he would like them to remove the metal posts and replace with solid wooden posts and marine grade rope.

Maria and Tara will draft a letter to Park & Rec.

Administrative:

Map 15 Lot 6/ Trees around house: Maria updated the board on a request by the new owner of this property to removal several trees that are too close to the house or hanging over the house. The house has mold problems and by removing the trees the house will get more light and air. All of the trees pose a potential hazard to the house. The board was fine with all of the trees to be removed except the one closest to the pond. A motion was made and seconded to approve this work under an Administrative approval. All in favor.

Tiah's Cove Culvert: Tara updated the board on plans to replace the culvert. A bid for a construction contract was put out but ultimately pulled due to unanswered questions. Tara said she spoke to Richie and he is willing to go forward. Maria was instructed to prepare a letter to the Board of Selectmen and the Highway superintendent recommending that the town move forward to replace this culvert.

[Note: The Order of Conditions was issued on January 2, 2019. A bid package was sent out in mid-January and canceled in February for a lack of response to questions on the design plan.]

Site Visit Day: Members agreed to change the standing site visit day to the first and third Wednesday of each month.

- **Correspondence:**

In: Map 38 Lot 7.7 and 7.8/ NHESP letters

Out: Map 39 Lot 2.1/ SE79-392: 147 Middle Point Road/ Approval of View channel
Map 38 Lots 1 and 2; Map 39 Lot 14

There being no further business to conduct, the meeting adjourned at 7:20 P.M.

Respectfully submitted,

Maria McFarland
Board Administrator