

WEST TISBURY
CONSERVATION COMMISSION
MINUTES OF MEETING
October 26, 2021

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: John Brannen, Geraldine Brooks, Angela Luckey, Donna Paulnock, Peter Rodegast, and Michael Turnell

Absent: Whit Griswold

Staff Present: Maria McFarland

Also present for all or part of the meeting: Rob Aryee, Robert Doane, Sean Dougherty, Cheryl Eppel, Ben Hall, Richard Hennessey, Kris Horiuchi, Richard Johnson, Jake Lefeber, Tom Liddy, William Schneider, Reid Silvia, Scott Smyers, and Phil Reagan

John Brannen called the meeting to order at 5:05 P.M.

Minutes: The minutes of the September 28, 2021 meeting were approved as revised. Roll Call Vote: Angela, Donna, Geraldine, John, Michael, and Peter voted in favor.

Map 43 Lot 1/SE79-427: A public hearing under the requirements of the West Tisbury Wetlands Protection Bylaw and regulations to consider a **Notice of Intent** filed by Vineyard Land Surveying & Engineering, Inc., on behalf of Joanne Cheng and Watcha Club LLC for a project to demolish and remove an existing single-family dwelling and to construct a new dwelling, guesthouse, garage, pool and perform associated site work and landscaping within the Buffer Zone to Land Subject to Coastal Storm Flowage (LSCSF) and the Buffer Zone to a Bordering Vegetated Wetland (BVW) along Watcha Pond. The project location is 100 Watcha Club Road owned by Watcha Club LLC.

Attendees viewed the project plan and site visit photographs while Reid Silva went over the resource areas and project components shown on the plan and outlined above. The limit of the FEMA flood Zone AE is Elevation 11. The proposed pool is set at elevation 14. Reid said the location of the pool anticipates rising flood elevations in the near term. Members also reviewed the 100- and 500-year flood zones and storm surge overlays that shows this property in relation to possible flood and hurricane surges.

Two small sections of the existing house are just inside the Buffer Zone to the BVW. The new house will be located outside the Buffer Zone. Grading will be done within the last 30' of the Buffer Zone.

Kris Horiuchi reviewed the landscape plan. Maria noted that this plan shows a view channel not shown on the Vineyard Land Surveying plan and not included as part of the Notice of Intent. The landscaping limit of work line around the house is within an existing landscaped area. Around the pool and guest house the area is wooded. The new owners plan to actively maintain existing landscaped areas. Area closest to the resource area shown in olive green on the plan that is not recently maintained will be restored with native vegetation. All areas disturbed during construction will be restored by grading and seeding.

Upon realizing that the some of the view channel is within Estimated Habitat the applicant would like to amend the NOI to include this approval of same as part of this project. The Commission accepted the amendment. A revised Notice of Intent and plan will be sent to NHESP.

No construction is proposed within an area of Estimated Habitat (defined in Section XXI of the Bylaw)however, a small section of the main house, the guest house, pool and view channel are situated within Priority Habitat regulated under the Massachusetts Endangered Species Act. The applicant will file with the Natural Heritage and Endangered Species Program (NHESP) in order to have a response from NHESP before the next meeting on this project. No work is being proposed within the No-Disturbance Zone, however it is within LSCSF, Estimated and Priority Habitat. The board would like to see the NHESP comment letter on the work within Priority Habitat and that part of the view channel that is within Estimated Habitat before voting on this matter.

Commissioner's Comments/ Questions:

Geraldine expressed concern about sea level rise, climate change and the migration of wetlands inland and asked if all of the structures could be pulled back and moved to the west. Phil Regan said the pool was sited so that there would be a clear line of vision from the house to the pool. Reid replied that the new plans take into consideration existing landscaped areas and view channels. The project would have to be moved significantly to the west in order to get it out of the Buffer Zone to LSCSF. She would like to see the pool and guest house pulled out of the Priority Habitat area. Angela concurred. Angela said because of climate adaptation, wetlands are migrating inland. Development that is too close is problematic for her.

Phil Regan, the applicant's architect, told the board he thought they would be able to pull the house to the north, but the property was subdivided creating a new side line set back to be met, Watcha Club Road runs through the west side of the lot and there are overhead wires and woodland that would require more clearing than being proposed.

Michael noted that there is already a good view from the house with a significant winter view.

Peter suggested that the path to the pond be narrowed and allowed to grow back. Phil Reagan said he informed his clients that this could be an issue. He said his client is worried about ticks. The width varies from 5 to 8 feet. He would like to see the guest house and pool moved further back.

Reid responded to the concerns about sea level rise and flooding by stating that this site isn't as vulnerable as other island areas and because the new structures are located at elevation 16, he is not concerned. Peter said this project should stand for 100 years so the overlays the board has looked at have relevancy.

A motion was made by Peter, seconded by Angela to continue the public hearing on this matter to December 14 at 5:40 PM to allow the applicant time to file with NHESP and to look at changing the location of the guest house and pool. Roll Call Vote: Angela, Donna, Geraldine, John, Michael and Peter voted in favor.

Map 31 Lot 48: 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 Restoration Plan submitted in response to an Enforcement Order issued by the Commission to Nancy B. Eppel individually, and as Trustee of the Nancy B. Eppel Revocable Trust u/d/t dated October 31, 2014, and Cheryl C. Eppel for a wetland violation that took place on property located at 21 New Lane owned by Robert A. Doane and Cynthia L. Doane, Trustees of the Irrevocable Living Trust of the Doane Children u/d/t dated May 3, 1989 as amended.

John called on Scott Smyers of Oxbow Associates, agent for the Doanes to update the board. Scott told the meeting that he conducted a site visit on October 16 at which he staked out the approximate location

of shrubs and trees on site. The staking is represented on an Orthograph plan dated October 22, 2021. He has used the survey plan prepared by P. J. F and Associates dated October 3, 2021 which shows the location of existing trees in the cleared area. Scott used a yellow line on his plan to show that there is more regrowth of sprouts to the south of the yellow line than to the north. He is proposing 6 trees to be planted where the tree canopy is open so the trees have room to grow. The narrative for the restoration plan was not revised for this meeting. Scott said he would revise the written narrative once there was a final decision on the restoration plan.

Commission members conducted a site visit on October 20. Photos from the site visit were viewed. Members assessed the vegetation along the top of the bank and determined that trees are not appropriate near the top of the bank. There was no evidence of new stumps but there was evidence of a few old stumps that were recently brush cut and are sprouting. One photo shows Michael standing approximately 10 feet inland from the top of the bank and another of the area to the south that has seen the most regrowth.

Michael said the area that was brush cut down in June is growing back. He wanted to know what the purpose of introducing the trees was. Scott said they are trying to fill the area back in to make it forested.

Peter said trees are unnecessary near the top of the bank. They will cause too much disturbance to the existing root structures; no planting should happen within 10 feet of the bank because it is too steep.

At approximately, 6:10PM, the zoom connection was lost for approximately 6 minutes. When the meeting reconvened Maria advised that another board has a meeting beginning at 6:30.

Angela commented that the proposed trees are too close to the bank. Planting two trees away from the bank to replace the two trees would be acceptable to her.

Scott argued for putting trees close to the bank because there has been the least amount of regrowth in the area. Scott said he is surprised the Commission would not want this area to be planted with trees. He claimed this would set a precedent. Maria responded that the board looks at every site on a case by case basis.

John said the board scoured the cleared area and found almost no evidence that there are any trees that were cut that down. Michael said the trees that may have been there were not planted they were seeded. Scott could not explain why the most open area right at the top of the bank is still very open.

There was also a concern about the number of shrubs being proposed within the first 10 feet.

The first 10 feet from the top of the bank is still the most open. The board used this 10-foot area as a limit of where they will not allow anything to be planted.

Ben Hall asked if Richard Johnson could address the question of why the area closest to the bank has seen the least amount of regrowth. Dick said he looked at the area from the Eppel property through binoculars. In his opinion it looks like the area in question is mostly greenbrier which means the area has been cut many times.

Ben then asked the Chair to recognize Tom Liddy of LEC Environmental. Mr. Liddy called what is being discussed the development of an adaptive restoration plan for this area. He suggested that Commission wait until June 2022 to decide if planting is need. He will put his comments in writing.

John told Scott the board would like Scott to come back with a plan with no trees and no shrubs within 10 feet of the top of the bank. Maria added that the written narrative for the restoration plan needs to be revised to remove the erosion control mitt, the reference to the use of herbicides and the reference to seeding.

In summary the Commission would like to see the following changes made to the proposal:

- No trees or shrubs within 10 feet of the top of the bank and the 10 ft set back shown on the plan.
- Wording about seeding disturbed areas removed from the narrative.
- No soils to be imported.

At the request of Ben members viewed the video and photo he submitted on October 12.

A motion was made by Peter and seconded by Angela to continue the public hearing on this matter to November 9 at 6:15 PM to allow for revisions to be made to the narrative and site plan. Roll Call vote Angela-aye, Donna-aye, John-aye, Geraldine-aye and Peter-aye. Michael abstained.

Administrative:

Map 7 Lot 12/SE79-421/363 Lambert's Cove Road/ Certificate of Compliance/ Septic upgrade: Members reviewed photographs of the area. Peter made a motion, seconded by Michael to approve the Certificate of Compliance for this project. Roll Call vote: Angela-aye, Donna-aye, John-aye, Geraldine-aye, Michael-aye, and Peter-aye.

- In:** **Map 31 Lot 48:** Email from Ben Hall dated October 12, 2021 including letter and photos
Map 31 Lot 48: Email from Scott Smyers of Oxbow Associates dated October 18, 2021 re site visit
Map 31 Lot 48: Email from Scott Smyers of Oxbow Associates dated October 18, 2021 transmitting photos

- Out:** Letter to Blackwater Brook Farm, Runamuck Farm and Leonard-Peck dated October 8, 2021 regarding informal test results of bacteria counts in Blackwater Brook

The meeting adjourned at 6:40 PM

Respectfully Submitted,

Maria McFarland
Board Administrator
APPROVED
DECEMBER 14, 2021