

WEST TISBURY  
CONSERVATION COMMISSION  
MINUTES OF MEETING  
February 13, 2024

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, Geraldine Brooks, Whit Griswold, Chris Lyons, Ernie Thomas, and Michael Turnell

**Absent:** Angela Luckey and Peter Rodegast

**Staff Present:** Maria McFarland

**Also present for all or part of the meeting:** Michael Barclay, Jeremiah Brown, Bryan Collins, Adam deBettencourt, Cameron Larson, Nia Fialkow, Kristen Geagan, Russell Hartenstein, Reid Silva, George Sourati, Brett Sterns, Scott Stevenson, and Jack Vaccaro

Whit Griswold called the meeting to order at 5:15 PM.

**Minutes:** Approval of the minutes of the January 23, 2024 was tabled to the next meeting.

**Continued Public Hearing**

**Map 35 Lot 6.12/SE79-461:** 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 Sourati Engineering Group, LLC, for a project to renovate and construct an addition to a single-family residence within the flood zone/Land Subject to Coastal Storm Flowage (LSCSF), the construction of a garage/studio with associated utilities, and the installation of a new septic system . The project is located within the flood zone and within the Buffer Zone to LSCSF, over a Coastal Bank and within the Buffer Zone to a Coastal Bank at **130 Plum Bush Point Road** owned by Nancy B. Gardiner, Trustee of the CYS 130 Realty Trust.

George presented the changes to the project plan. Changes were based on the comments made by Cameron Larson of Environmental Consulting & Restoration, the Commission’s consultant. Most board members had already read the report so it was noted for the record, but not read aloud.

Cameron summarized his report. The site contains Land Subject to Coastal Storm Flowage, Salt Marsh, Coastal Bank and the Buffer . They did a field review and read Epsilon’s coastal bank analysis. Cameron’s comments centered on the following aspects of the Epsilon report:

Cameron thought that Mr. Vaccaro’s report was very thorough, all wetland areas were delineated accurately on the plan. There is work proposed within those resource areas and the buffer zone.

The primary issue that the Commission needs to determine if the Coastal Bank is or is not significant to the protection of the interests of the Wetlands Protection Act and the local bylaw. Cameron explained that it is difficult to overcome the presumption that coastal banks are significant for storm damage protection and flood control. The coastal bank at this property is not providing sediment to down drift beaches because it is not an eroding bank.

The next issue Cameron said the Commission needs to decide is whether the coastal bank at this property provides protection for flood damage and storm protection.

Epsilon reported that in their opinion, the bank is not significant to protect those interests. ECR offered a different opinion, that the bank is significant to the protection of those resource areas and countered Epsilon's point about the bank being discontinuous. (Meaning that it is broken up or fragmented and located on a portion of this site and may not continue off site. )

ECR agreed that the bank is not continuous, but in their opinion, there is enough slope to meet the definition of coastal bank and that floodwaters can move landward of the bank.

Epsilon also stated that the bank cannot buffer incoming flood waters because the home is situated between the cove and the bank. After his site visit, Cameron concluded that because the house does sit on pilings, flood waters flow from Tiah's Cove under the home to the bank. Consequently, the bank does function to protect against flood waters during a 100-year storm.

The last point Epsilon made that ECR did not agree on is that the significance of the bank is diminished because of its distance from the cove. Cameron explained that the grade is low from the cove to the bank and the elevation doesn't rise until you get to the bank itself. At the site visit, there was a wrack line which extends toward the rear of the home. This is probably typical during high tides or moon tide and is a good indicator that flood waters can extend a good way from the cove.

The applicant is required to meet the Performance Standards for work on a coastal bank, specifically standards 6, 7 and 8 the Coastal Bank regulations at 310 CMR 10.30 and under those in the local bylaw regulations. Cameron read those for the record. The Commission needs to decide if there is the potential for adverse impact or if there will be none. Lastly Cameron noted that the project is not located within Estimated Habitat.

ECR made the following recommendations:

The proposal that the piers will span the coastal bank is good, but ECR is concerned about the addition causing shading on the bank which can impact the vegetation. They reviewed the area under the home and it is all exposed soils with no vegetation. This condition will continue once the addition is installed. ECR recommended that the Applicant find a way to stabilize the soils in order to stabilize the bank.

Recommended improving the site's ability to manage flood waters and storm damage by planting out the open area in the southeast corner of the site by the pier that is currently lawn in order to enhance a native buffer to provide better flood control.

While there are no Performance Standards under the Act for LSCSF, under the Bylaw, Cameron thought that the project seems to meet the Performance standards. The applicant has requested a waiver of the provisions in the Bylaw Regs for work in the No-Disturbance and the No Build zones ( First 50 feet of the Buffer zone. )

Commissioner's Comments/ Questions:

Whit asked Cameron if he said the addition would have no impact on the coastal bank. Cameron explained that in reviewing the initial design his concern is with shading the bank and destabilization of the bank. ECR recommended crushed stone, coir fabric, or another innovative way.

Whit then asked George if he wanted to comment. George asked Jack Vaccaro to comment:

Mr. Vaccaro of Epsilon, the Fialkow's consultant said that what the Commission is presented with is a disagreement between the consultants. He said only the most extreme floods would reach the house. In his review of the project he focused on the no adverse effect performance standard. In the interest of moving the project forward, he asked Commissioners to consider the impacts to the coastal bank . He agreed with the recommendations that ECR has made and these recommendations are shown on the revised site plan. He noted that both consultants agree that there is a coastal bank at this site, the limits of the coastal bank and how it is shown on the plan.

George stated that the Commission's consultant said the project is allowable and the plan shows the requested changes. He reiterated that the project will not touch the coastal bank as the addition will span the bank.

He again reviewed the contours in the context of the DEP on determining a coastal bank. George and Cameron agree that the mounded septic system may have been partially created by the excavation for the septic system and the pilings. No one can determine what the coastal bank was like in 1982 when the house was built.

The revised project plan shows an area of crushed stone ( ¾ inch pea stone) to be added under the addition and it also shows a No Mow zone. If, after two growing seasons, the No Mow zone could benefit from some plantings, a landscape plan detailing the types, quantities and sizes of the plans will be submitted to the Commission for approval.

Geraldine ask Cameron about plantings on the bank itself. Cameron replied that the bank is pretty well vegetated. Cameron offered that switch grass and little blue stem could be considered.

George was asked to add gutters and dry wells for drainage to the project plan.

Chris asked if removing the existing septic could cause problems. George said that if the Commission approves this project, a possible condition could be that George will oversee the project and submit a report on how it was done and to guarantee that there is no

adverse impact. Whit said that the installation of the improved septic system is a good thing because it is very close to the pond.

Michael asked if the flood elevation is the same as the existing house. George said it is the same. Whit added that the piles will be shorter. Michael Barclay commented that the floor elevation is 14.7, well above grade.

Whit asked Michael if there was any type of moss that would grow in shade, Michael wasn't sure. Michel then asked about the size of the stone to be used.

Geraldine asked George to show the revised plan, and to address the waiver issue. What will be happening in the no build zone. George reviewed the revised plan.

The following conditions were agreed on:

Sourati Engineering Group will monitor the work, especially the installation of the new enhanced denitrifying system. They will also monitor the condition of the No-Mow zone for 2 growing seasons. The Commission will do a site inspection to determine if additional plantings are required.

A motion was made by Ernie, seconded by Michael to issue waivers to allow work within the No-Disturbance zone and construction in the No-Build Zone (the first 50 feet of the Buffer Zone) to Land Subject to Coastal Storm Flowage.

Discussion on the motion: Geraldine said she usually has reservations about approving waivers but if all the proposed mitigation is taken she is fine with it. Whit asked George if he will be one site while the work is being done to ensure that is done in accordance with the plan and the OOC. Roll Call Vote: Ernie-aye, Fred-aye, Geraldine -aye, Michael-aye, and Whit-aye.

Whit said that the members should set aside the disagreement about presumption of significance and focus on no adverse impact.

He asked for a motion to approve the NOI as we've discussed it and with conditions that include monitoring by Sourati Engineering Group, a planting plan to be submitted and approved prior to implementation in the field

A motion was made by Fred, seconded by Ernie to approve the project as modified with the conditions as noted above. Roll Call Vote: Ernie-aye, Fred-aye, Geraldine aye, Michael-aye, and Whit-aye.

### **New Public Meeting**

**Map 35 Lot 6.7:** A public meeting under the requirements of the West Tisbury Wetlands Protection Bylaw and regulations to consider a **Request for Determination of Applicability** filed by Vineyard Land Surveying & Engineering, Inc., on behalf of Jeffrey & Carolyn Carney for a project to install a temporary access for work under an

Order of Conditions (WTCC2023-1), and to construct an extension to an existing retaining wall within the Buffer Zone to Land Subject to Coastal Storm Flowage. The project location is **80 Plum Bush Point Road**.

Reid Silva and Russell Hartenstein, the contractor, were present for the applicant.

The applicant previously received an Order of Conditions for a project to replace the pool at this property. The purpose of this request to gain approval for the temporary access on the north side of the pool house as opposed to the South side and some of the plantings that are being proposed.

Vineyard Gardens did a landscaping plan which Reid shared with the board.

Maria explained that the Zoning Board was also required to sign off on the pool replacement. It took quite a while to get the application through the Zoning Board because the neighbors objected to the location of the existing pool equipment shed. After negotiations with the neighbor the shed will be located as shown on the plan. The new location requires a change for access to the pool to do the work because the shed will be in the way of what the Commission approved. The neighbors insisted that the Rhododendron hedge be extended.

Reid explained that there will be a siltation and construction fence that runs the length of the accessway. It terminates at the current retaining wall. The elevation starts drop off towards the pond. All of the activity will be contained on top of the retaining wall. There is a privet hedge and that will be removed and replaced with an American Hornbeam hedge.

Jeremiah was asked if he recommend a different plant from the Rhododendrons. Jeremiah replied that he understood that the additional Rhododendrons were predetermined by a discussion between the Carney's and the neighbors during the ZBA deliberation so they stayed with the decision. They didn't make a secondary recommendation.

A motion was made and seconded to issue a Negative Determination because the work is in the Buffer Zone, is temporary and the area will be restored, therefore, an Order of Conditions is not required. The accessway and the planting plan were approved. Roll Call Vote: Ernie -aye, Fred-aye, Geraldine-aye, Michael-aye, and Whit -aye.

### **New Public Hearing:**

**Map 12 Lot 26.1/ SE79-462:** 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 Sherriff's Meadow Foundation, for a project to install new trails, 2 boardwalks over a wetland, invasive species control and habitat management. The project is located within a bordering vegetated wetland and the buffer zone **at 0 Indian Hill Road**.

Kristen presented the project. There were no questions from Commissioners.

Whit asked Mr. Stevenson if he had any comments. He didn't but he did ask for a copy of the plan showing the trail. Whit closed the public hearing and called for a vote. Fred made a motion, seconded by Michael to approve this project as presented and to approve the waiver request for work in the No-Disturbance Zone under the Bylaw. Ernie -aye, Fred-aye, Geraldine-aye, Michael-aye, and Whit -aye.

**New Business:**

**Brandy Brow:** The informal meeting with Steven Lester of the Complete Streets Committee was tabled to a later date.

**Warrant Article/ bylaw filing fees:** A motion was made and seconded to approve this warrant article which has already been submitted. There being no discussion a roll call vote was taken:

Fred -aye, Geraldine-aye, Whit-aye, Ernie-aye and Michael-aye.

**Map 7 Lot 143/31 Millstone Lane:** Maria explained that she received a project plan for a project for a detached bedroom on pin foundation approximate 98 feet from a wetland. As we can't do any more hearing until the end of March, she asked the board to determine if any paperwork was need or if she could do this as an Administrative Review. The board agreed that she could do an Administrative Review but wanted her to do a site visit to be sure it was done in accordance with the plan. No vote was taken.

**Administrative:**

**Members:** Fred explained that he would like to switch places with Chris Lyons so that Chris could be a full member. Fred will continue to sit on the Commission as an Associate member. A motion was made and seconded to ask the Select Board to vote to make this change. Roll Call Vote: Geraldine-aye, Whit -aye, Ernie- aye, Fred-aye, and Michael -aye.

There being no other business to discuss, the meeting adjourned at 6:45 PM.

Respectfully Submitted,

Maria McFarland  
Board Administrator  
APPROVED  
2/27/2024