

WEST TISBURY
CONSERVATION COMMISSION
MINUTES OF MEETING
February 23, 2021

Present: John Brannen, Geraldine Brooks, Whit Griswold, Angela Luckey, Donna Paulnock Binnie Ravitch, Peter Rodegast, Michael Turnell, Tara Whiting-Wells, and Whit Griswold

Staff Present: Maria McFarland

Present for all or part of the meeting: Emile Carter, Geoffrey and Kate Lauprete, Thomas Rainer, Reid Silva, and Claudia West

Whit Griswold called the meeting to order at 5:08P.M. 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.

Minutes: The minutes of the February 9 meeting were approved as revised. Roll Call Vote: Binnie, Geraldine, John, Michael, Peter, and Tara in favor. Whit abstained.

New Public Hearing:

Map 3 Lots 4, 6, & 7/SE79-422: a public hearing on a **Notice of Intent** filed by Vineyard Land Surveying & Engineering, Inc., on behalf of Lynley Projects LLC, Snezana Westby, and Lamberts Cove House LLC. The project consists of the installation of a new well at 63 Boghouse Way (M3-L7) to serve the house located at 56 Boghouse Way (M3-L4). Trenching for the water line will cross under an existing shared driveway through 62 Boghouse Way (M3-6). The well location and the driveway are within the Buffer Zone to a Bordering Vegetated Wetland.

Reid Silva spoke on behalf of the property owners. Lynley Projects LLC is the owner of the properties at 56 and 63 Boghouse Way. The Westby property sits between them and shares the driveway at the end of Boghouse Way. The well at 56 Boghouse Way has a driven point well located in a well house. The well has failed. Reid said there is a large stand of mature Spruce trees that would have to be removed in order to get a well drill in to dig a new well on this property. Driven points draw water from a perched table rather than drilling a 70 ft. deep well. Over time, the screens silt up and corrode. Now that there are leach fields in the area it makes siting a new well more complicated. According to Reid, the Board of Health is fine with the proposed well location given set back requirements to leach fields in the area.

The well will be located 46 feet from a wetland on the opposite of an existing driveway. Trenching from the new well will be down the existing driveway shared by 56, 62, and 63 Boghouse Way. There is a wetland on both sides of the driveway connected by an 8-foot wide culvert under the driveway. They would like to do an open trench with an excavator due to cost and practicality. He does not see an issue trenching down the driveway until you get to the culvert. The water table is perched. He described the wetland area as most likely an old cranberry bog that were drained and cut off by roads in the area. The soils do not hold water. When you push a pipe underneath, the soils are not saturated.

Before the water line can be trenched, it is necessary to determine the depth to groundwater in order to determine the method of laying conduit in the driveway. Reid said they would dig a few auger holes along the driveway to determine the depth to groundwater. The contractor will have to use directional drilling if groundwater is at 4 feet. If they do not find groundwater at that depth, an open trench could be dug and backfilled within 24 hours.

Erosion control measures consisting of silt fencing stapled to construction fencing along the driveway are shown on the project plan.

The well will be installed sometime this spring so it will not be possible to wait until a drier time of year.

Commissioner's Comments/ Questions:

Michael suggested that a perc test be done in the driveway. Reid agreed that they would do soils evaluation to determine saturation.

Binnie asked how far directional drilling could be done. Reid described how directional drilling would be done at this site. He said it would be more expensive than digging an open trench.

Peter asked Reid for a comparison of the cost difference between directional drilling and digging an open trench and going around the electrical service. The distance is approximately 250 feet. Reid estimated \$40 per foot for directional drilling or approximately \$10,000. Digging an open trench is a day's work with an excavator, and a couple of days to backfill the trench and restore the driveway. He estimated the cost difference to be approximately \$5,000 less for an open trench. Peter suggested the directional drilling would require less silt fencing because there would be less disturbance.

There was a brief discussion about how to deal with the power lines. Reid was not sure if it was overhead or buried. Reid will have to sort this out.

Peter said he did not want to tie Reid's hands by requiring them to do directional drilling but it would be less disturbance and would require less silt fencing.

There was no public comment. The public hearing was closed. A motion was made by Peter, seconded by Binnie to approve the project as presented with the condition that Vineyard Land Surveying will determine the method of drilling for the water line based on the results of test borings to be done to determine the depth to groundwater. The Commission prefers the use of directional drilling, which will require less silt fencing and less disturbance than would be caused by digging an open trench. The board will be notified of the determination prior to the commencement of work. Roll Call Vote: Binnie-aye, Geraldine –aye, John – aye, Michael-aye, Peter-aye, Tara-aye, and Whit-aye.

Continued Public Hearing

Map 23 Lot 3.1.SE79-419: 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 Vineyard Land Surveying & Engineering, Inc. on behalf of Kate and Geoffrey Lauprete and JMMoulton Realty Trust, (lessee) of property located at 71 Tisbury Lane West owned by Seven Gates Farm Corporation. The project consists of the installation of a 20' x 50' in-ground swimming pool, pergola, retaining wall, relocation of a septic tank and associated site work within the Riverfront Area.

Reid opened the presentation by stating that this is the third meeting on this project. The pool has been reduced in size by one foot, from 20' x 50' to 19' x 50' and that he is available this evening to help understand the Riverfront Regulations. The Vineyard Land Surveying has submitted a revised their project plan dated February 22, which was noted for the public record.

The Vineyard Land Surveying plan dated February 22, 2021 shows the following area calculations to demonstrate that the project meets the RFA performance standards:

Total lot area 5.11 acres
Total RFA 4.22

Proposed Pool Area Disturbance: 4,920 square feet. T

The state regulations allow for up to 5,000 square feet or 10% of the total Riverfront Area on a lot created before 1997.

Thomas Rainer took over the presentation. He and his clients took away 2 points from the February 9 meeting; 1) that the Commission would like the project shifted out of the first 100 feet of the Riverfront Area and the 100 foot Buffer Zone and 2) - that the buffer strip proposed as mitigation for the conversion of lawn to a pool needs to be as large as possible.

Thomas Rainer took the board through a revised slide show representing the three previous iterations of the proposal and the most recent changes based on the comments and suggestions of Commissioners at the February 9 meeting. The revised power point presentation dated February 23, 2021 is included as part of the public record.

The original proposal (not submitted to the board) placed the pool 60 feet from the house. The new plan reduces the space between the house and the pool to 24 feet representing a 40% reduction. There is a grade change that will require fill and stairs down to the pool. They are trying to minimize the amount of fill.

The following changes have been made to the design.

- The pool has been shifted 7 feet closer to the house.
- The pool size has been reduced by a foot.
- The lawn has been consolidated on the streamside of the pool.
- The outer edge of the terrace has been pulled in by one foot.

There is 18 feet between the pool and outer retaining wall, which will provide seating and a play area. These changes represent a 27% reduction in the size of the lawn area around the pool. The closest point from the outer retaining wall to the edge of the stream is 63 feet. The north corner of the retaining wall is 50 feet from the edge of the wetland, the east side is 80 feet, and the south corner is 65 ft. Thomas said it is impossible to move the project out of the 100-foot buffer zone entirely. The original amount of proposed structure in the RFA of 576 feet has been reduced to 158 feet.

Thomas then addressed the suggestion from the last meeting that the pool be totally removed from the RFA by shifting the pool closer to the house and the courtyard. He said they looked at the suggestion and it does not work. Moving the pool closer to the house leaves only 15 feet between the house and the pool and there is a 30-inch drop in grade between the house and the pool that needs to be addressed. Shifting the pool to the east will not get the project out of the RFA, puts it 5 feet from the driveway and very close to a Legacy Elm tree where excavation could impact the roots of this tree. The owner would like to preserve this specimen tree.

At the last meeting they reviewed the range of alternative locations as required by the state regulations. The site is constrained by a pond and wetlands around the property. Thomas pointed out that the streambed is often dry in the summer so the applicant could have filed the application as work in the Buffer Zone only, but the applicant chose to file the Notice of Intent under the RFA regulations rather than demonstrate that the stream is intermittent. The pool location is a disturbed field between the house and the stream. It is not native meadow or wetland.

Of the total area that overlaps the RFA, most of it is vegetative cover. They are proposing to grow native pollinator plants in the planting beds. It is the landscape architect's opinion that the lawn area around the pool will be more pervious than the compacted turf that currently exists.

Thomas noted that the Bylaw states that the Commission may issue a waiver of the performance standards for the RFA if affected area does not negatively impact the resource area. He stated the project would not have any long-term permanent impacts on ground water, private water supply, water quality, flood control, or wildlife habitat. Erosion and sediment during construction can be controlled with erosion control fencing. There will be no impact to wild life habitat and rare species habitat will not be affected.

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The second request the board had at the 2/9 meeting was consideration of as wide a buffer strip as possible as mitigation for the conversion of the lawn into pool area. They applicant has increased the size of the mitigation area to 2,300 square feet. Currently is area is turf lawn which would be converted to naturalized shrubs and tree cover.

The currently proposed the pool is 994 square feet over the outer buffer line. The proposed mitigation area is 3 times the amount of encroachment into the outer Buffer Zone. The pool would take up 158 sq. feet of the first 100 feet of the RFA. The pool mitigation area is 20 times the amount of encroachment. The addition of this substantial mitigation area will slow down run off and increase wildlife habitat.

Geoffrey Lauprete, property owner spoke about his passion for native plants and the work he and his wife have done in the 10 years to restore native plants on this property. One of the things that attracted him to the area is the mixture of woods and field with a rural feel. He said that some areas of the property are pristine and others have a lot of pressure from invasive species. He has been personally working to bring back native plant communities on this property. Kate Lauprete thanked everyone for their time. They have spent a lot of time removing invasive and uncovering native plants.

Commissioners Comments/ Questions:

John asked for the distance between the edge of the pool and the outer retaining wall. It is 18 feet. Mike asked how high the retaining wall would be. . Thomas said it goes from grade to 5 feet. This is the most level area on the site. The fencing will be located on top of the retaining wall. He showed the board the preliminary grading plan. The walls will limit the total amount of grading. Michael noted that during construction the overdig would be at least 3 feet, which will be contained during construction.

Tara said she would like to see no lawn on the streamside of the pool. She said they are asking for a waiver for something the applicant does not need. While she appreciates the effort they have put in it is her opinion that they do not need 18 feet of lawn even with the mitigation.

Thomas replied that the 18 feet of lawn between the pool and the outer retaining wall is the only space that people can inhabit and to move around the pool. They have eliminated the lawn area between the retaining wall and the pool on the house side and replaced it with a planting bed for native pollinator perennials. Without the planting bed, the pool would be hard up against the retaining wall that is necessary because of the grade change. There is no practical way to have the pool without having some lawn.

Tara then asked how much lawn is on the other sides of the pool. Thomas said there are 8 feet of lawn and 8 feet of planting beds on the east and west sides of the pool. Tara reiterated that she is opposed to lawn on all four sides of the pool. Thomas reiterated that they have reduced the total amount of lawn around the pool by 27%.

Mike suggested that they remove the planting bed along the retaining wall near the house. Thomas said that is a bad design, would create a moat around the pool, and would not work. The owners have been

working to plant natives on the property but the deer pressure has been great. The planting beds will provide native pollinators and the pool fence will serve to protect these plants.

Thomas asked the board to help them to understand what the impacts will be on the resource areas protected by the bylaw. Geraldine replied that concern is that construction within 100 feet of the Riverfront Area requires a waiver. It has to meet an extremely high bar to justify a waiver and the project as designed is not there for her. Thomas responded that even if there are temporary impacts during construction any erosion would be mitigated with silt fencing. In his opinion, there are no long-term impacts as they are replacing turf with turf.

Whit said they made an effort to move things and to mitigate but there is still a concern about too much disturbance in the RFA. Whit said it is better to have lawn on the streamside of the pool than tile. Whit asked if there is a walkway along the planting bed on the house side of the pool and how would it be maintained. Thomas said plantings would be low maintenance and cut back once a year in the winter or spring. The only place for a seating and play area is on the 18 feet of lawn.

Angela asked about making the east and west sides of the pool the seating area instead of on the streamside. Michael suggested removing the beds and having the seating in another spot. Thomas responded by saying that from a design perspective 8 feet is too tight and defeats the purpose of having the planting beds.

Peter said he appreciates the mitigation area, and that the pool is as close to the house as it can be. He noted that the elevated retained earth area is planting bed and not support for the pool. It is landscape support but not functional support for the pool. Any reduction in the size of the planting beds would be good. Thomas said the functional purpose of the planting space between the pool and the edge of the wall is so that the area is not crammed up.

Thomas asked the members if they are saying they would approve a project if they reduce the size of the 10-foot planting bed (on the house side of the pool), make the lawn area between the pool and the outside retaining wall smaller, and if they thought about making a smaller pool. He said they have come back 3 times with the changes they thought the board had requested and said if the board isn't going to approve the project with these last changes it would be good to know now.

Tara said she would like them to remove as much as they absolutely can and only have what is necessary to hold the pool up and people can get in and out of the pool. She added that it is more important for wildlife to have turf to move on than for people to use. She appreciates the amount of proposed mitigation, but in her opinion, there is too much hard structure being proposed.

Reid asked if the Commission would consider any part of the pool within the Riverfront Area. He reminded the board that structures are allowed under the Bylaw in the Outer Buffer Zone. Tara said she would be more amenable to approve this project if there was no lawn on the streamside and if only a small part of the pool was in the RFA. Thomas replied that if they put more lawn on the house side it would put more hard structure in the RFA, not less.

Whit summarized The Commission would like the lawn area reduced to 9 feet on the streamside and the width of the east and west sides of the pool kept at 8 feet plus the planting beds. Geraldine and Tara said they should reduce the size of the pool. Mike suggested changing the shape of the pool.

Peter said they could put some of the material from the planting beds outside the retaining wall. Thomas said the idea of the planting beds is to keep the deer away from the plants. [Peter left the meeting after this comment.]

Thomas said the guidance was clear and they would like a continuance to have time to discuss it with his client.

Whit apologized for belaboring this and acknowledged that this is taking a lot of time but thinks the project design is close.

At the applicant's request, a motion was made and seconded to continue the public hearing to March 9, 2021 at 5:10 PM. Roll Call Vote: Binnie-aye, Geraldine-aye, John-aye, and Tara -aye. Michael and Whit are not eligible to vote on this project.

New Business:

Map 35 Lot 6/ 70 Plum Bush Point Road: Members reviewed a proposed site plan and emails from Tristan Atwood regarding excavation for the conversion of an existing screened-in porch to living space and for the conversion of an existing deck to a screened-in porch. The new work will sit on a standard frost wall (4' forms.) The proposed work is being pulled back from the existing footprint and out of the 100' Buffer Zone. The existing screen porch footprint is being reduced by 7' and the existing deck about 2'-8", both further away from the pond. The wetland edge has been flagged in the field and is shown on the project plan. Tristan estimated the encroachment into the Buffer Zone to be between 2' if the soils are tight and 4' if they are loose.

Maria said the property is level and there is more than adequate vegetation between the lawn and the pond. She suggested this could be done by administrative review with a request that erosion control measures be installed. The board would like a Request for Determination of Applicability submitted. The property owner will be so informed. A vote was not required.

Old Business

Map three Lot 72/Cottles/ Lumberyard: Maria reported that the board received an email from Ed Cottle, Jr., acknowledging receipt of the February 17 letter. Mr. Cottle is away until the end of March but he will have the lumberyard manager contact Vineyard Land Surveying & Engineering to have them to look into the drainage design and will have the Lamberts Cove lumberyard manager make sure the materials have been moved. He will contact the Commission when he returns. No action required.

Map 7 Lot 28.1/ Cottles/Blackwater Brook Farm: Whit reported that he had a conversation with Alan Cottle. Mr. Cottle told Whit he would be willing to create a berm to keep the cows further from the brook, but he would need permission from the owner to access the property. No action was taken.

Tiah's Cove Culvert Replacement/ MVP grant: Angela told the board that Prudy Burt of the Mill Brook Watershed committee would like the town to submit an "Expression of Interest" for an MVP FY22 Action Grant. Submittal of this letter is optional and intended to provide potential applicants with feedback on their project idea before submitting an application. Because this culvert is not within the Mill Brook watershed Prudy thinks the BOS or this board should be the applicant. Maria told the board that she and Jen attended a call on this grant and determined that based on the evaluation criteria, this project will score very low. Jen will submit the letter. No action was required.

Roth Woodlands/Sheriff's Meadow: Angela asked if the board would consider writing a letter of support to the Chilmark Conservation Commission regarding the dam removal project at Roth Woodlands in Chilmark. The headwaters of the Mill Brook are at Roth Woodlands. Maria will get a copy of the

Notice of Intent and project plan from the Chilmark Con Comm. The board agreed to write a letter for support.

Administrative:

Joint Committee meeting letter Tabled to the March 9 meeting.

Correspondence:

Out: Map 3 Lot 72/ Letter dated February 17, 2021
Map 7 Lot 28.1/ Letter dated February 17, 2021

There being no further business to conduct, the meeting adjourned at 6 55 PM.

Respectfully submitted,

Maria McFarland
Board Administrator
APPROVED
MARCH 9, 2021