

WEST TISBURY  
CONSERVATION COMMISSION  
MINUTES OF MEETING  
April 16, 2019

**Present:** John Brannen, Geraldine Brooks, Whit Griswold, Michael Turnell, Binnie Ravitch and Tara Whiting-Wells

**Absent:** Peter Rodegast

**Staff Present:** Maria McFarland

**Also present for all or part of the meeting:** Seth Abbott, Chris Alley, Nick Bayer, Everett Healy, Kent Healy, Reid Silva and Tracey Smith

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

**Minutes:** The minutes of the February 19 meeting were approved. John and Binnie abstained.

The minutes of the, March 12 and March 26 meetings were reviewed but tabled due a lack of quorum needed for approval.

**Public Hearings:**

**Map 3 Lot 9.11:** an after-the fact 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 Schofield, Barbini & Hoehn, on behalf of Michael J. and Kelly M. Desrosiers for a project located at 40 Bartimus Luce Road. The project consists of the construction of a single family dwelling and associated site work in the second 100 feet of the Riverfront Area.

Tracey explained that [on Friday March 8] when the Building Inspector was working on issuing the building permit, he noticed that the USGS map showed a perennial stream. He realized he should have referred the builder to this board before he allowed the builder to dig the foundation hole.

Maria contacted the builder who installed a construction and silt fence. The applicant hired Doug Cooper of Cooper Environmental Services who performed one day of field observation on March 9 and submitted a letter on March 11. A site visit was done on March 11. Maria forwarded the letter to the DEP circuit rider and posted it on the MACC forum for feedback on the adequacy of one day of observation and the use of Streamstats to determine the watershed of the stream in question based on the provisions of the Riverfront Regulations. In the absence of other data, a stream is perennial if it is shown as a solid blue line on the USGS map. If the stream is shown as intermittent, the regulations requires 4 consecutive days of observation, and if useable, the Streamstats to determine the size of the watershed. Based on the feedback Maria received, Tracey filed an after-the-fact Notice of Intent.

The applicant was required by DEP to submit a more detailed alternatives analysis. Members reviewed the analysis with the Notice of Intent that DEP deemed to be incomplete. DEP has not issued a file number letter so the hearing has to remain open.

Public Comment: Seth Abbott, an abutter to the property, stated that he has observed this stream to be completely dry, and in some years for months at a time.

A motion was made and seconded to continue the public hearing on this matter to April 23 at 5:10 PM.

**Map 3 Lot 85.4/SE 79-398:** 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 James M. Ferry for a project located at 67 Blackwater Hollow Road. The project consists of the construction of a saltwater pool with associated site work within the first 100 feet of the Riverfront Area.

The lot predates the establishment of the Riverfront regulations in 1997. The main house was built in 1987 and the guest house in 1992. A tributary of Black Water Brook runs through this property. The wetlands were originally flagged in 1987 by Rusty Walton. Vineyard Land Surveying surveyed the wetland edge based on the original delineation.

The pool will be constructed within the existing parking area. The pool equipment vault will be below grade. The pool will be filled with water from an offsite source and will be emptied into a tank and disposed of offsite. The patio around the pool will be dry set blue stone. The location of the pool was determined by zoning setback requirements and the existing driveway.

The following special conditions will apply:

- Pool will be filled with water from an offsite source and when the pool is drained it will be drained into a tank and disposed of offsite.
- Any excess fill will be taken off site.

A motion was made and seconded to approve the project as presented. All in favor.

**Certificates of Compliance Map 3 Lot 85.4/SE79-34 (main house) and SE79-90 (guest house):** Reid submitted Requests for Certificates of Compliance for these two projects. At the site visit on April 11, it was noticed that there was been a lot slash and other household materials in and near the wetland. Reid will let James know that he needs to clean up the area so that this does not rise to the level of a violation that requires enforcement.

A motion was made and seconded to approve the Certificate of Compliance for the main house. The Certificate of Compliance for the guest house will be held until the area around the guest house is brought into compliance. All in favor.

### **Old Business:**

**Map 39 Lot 11/ SE79-344/Edens:** Update on driveway relocation: Tom Della Rocco, landscaper for the Edens, submitted photos and the driveway relocation plan marked up to show areas that need replanting. Tom is seeking permission to do this work as part of the restoration work required under the Order of Conditions.

**Map 39 Lot 7/ SE79- 354 /Edens:** Members reviewed photos of the restoration area at the top of the revetment. The top of the bank has been nourished a couple of times per the Order of Conditions a couple of times. The sand placed along the top of the bank, coupled with the placement of straw bales to slow erosion has apparently caused the plantings in this area to fail. Tom Della Rocco would like permission to replant the area.

A motion was made and seconded to approve the replanting plans for both properties. All in favor.

**New Business:**

**Map 25 Lot 1.1/MVAS/ APR:** Members reviewed a request from Kristina West, Executive Director and correspondence from Brendan O'Neill regarding whether the event proposed by the MV Hospital was permissible under the APR.

Joe Tierney reviewed the request and determined it complied with zoning. Brendan responded by email dated April 9. As stated in his email, "provided that this event complies with Zoning, it complies with the APR because the APR allows rental of the space for community activities by civic and government groups, provided the intensity of use is limited. Limited intensity favors local vs non-local uses, daytime vs nighttime uses, and activities that respect the residential neighborhood vs those that generate excessive noise and traffic. The proposed activity is a community educational forum, with expected attendance of about 150, held by the MV Hospital, a member of Partners in Health, a non-profit (501c3) organization. Attendance numbers do not appear excessive, the 5:00 pm - 6:30 time is less burdensome to the neighborhood than a nighttime activity, and associated traffic and noise impacts appear limited."

Based on his analysis, he concluded that the proposed use appears to be consistent with the APR co-held by VCS and the Town.

After discussion, a motion was made and seconded to disapprove a request for the use of the hall by the Martha's Vineyard Hospital for an event because there are too many events already scheduled for 2019, this is not an agriculture related event and there are appropriate alternative venues. All in favor.

Tara asked that the APR and the event approval process be on the April 23 agenda.

**Tiah's Cove/ Clam Point Dredge Environmental Notification Form (ENF):** The Fialkows, owners of 136 Plum Bush Point Road, have filed an ENF for a dredge project in the general location of the spit within Tiah's Cove. Notice of the ENF is required to be published in the Environmental Monitor. The deadline for comments on the ENF is April 30.

Nick Bayer, direct abutter to the proposed dredge site was present and gave the board a brief history of the Fialkows efforts since 2012 to get neighbors to join in the plan.

John asked for confirmation that there is a Mass Estuary sentinel station in Tiah's Cove.

A comment letter will be drafted for review at the April 23 meeting.

## **Administrative**

**Map 12 Lot 72 and 72.1/SE79-9:** A motion was made and seconded to issue a Certificate of Compliance for the creation of a pond in 1979. All in favor.

**Map 1 Lot 50/SE 79-358:** A motion was made and seconded to issue a Certificate of Compliance for a new house, pool and associated site work. All in favor.

## Correspondence

In: Map 12 Lot 72 and 72.1/SE79-9: Request for Certificate of Compliance  
Map 1 Lot 50/SE 79-358: Request for Certificate of Compliance  
Map 3 Lot 85.4/SE79-34 and SE79-90: Request for Certificate of Compliance

Tiah's Cove/ Environmental Impact Notification Form/ Dredge project  
MVC/ Martha's Vineyard Statistical Profile/ 2019  
BiodiversityWorks/2018 Island-Wide Bat Acoustic Monitoring Report

Out: None

There being no further business to conduct, the meeting adjourned at 6:45 P.M.

Respectfully submitted,

Maria McFarland  
Board Administrator  
APPROVED