

WEST TISBURY
CONSERVATION COMMISSION
MINUTES OF MEETING
August 11, 2020

Present: John Brannen, Geraldine Brooks, Whit Griswold, Donna Paulnock, and Binnie Ravitch

Absent: Peter Rodegast, Michael Turnell and Tara Whiting-Wells

Staff Present: Maria McFarland

Present for all or part of the meeting: Steven LaBranche, George Sourati, and Seth Wilkinson

Whit Griswold called the meeting to order at 5:05P.M. The meeting was held via Zoom in accordance with the Order Suspending certain provisions of the Open Meeting Law, G.L. c.30A sec.20.

Minutes: The minutes of the July 28 meeting were approved with revisions. Roll Call Vote: Binnie, Geraldine, John, and Whit voted in favor.

Continued Public Hearing:

Map 39 Lots 9,10 &11/SE79-415: 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 on behalf of Endofthedirtroad, LLC and Almostendofthedirtroad, LLC for approval of revised monitoring and maintenance provisions for a fiber roll and gabion basket array originally permitted under Order of Conditions DEP File # SE79-344, and for approval of nourishment and maintenance of a temporary access road located at 234, 225, and 226 Middle Point Road.

George Sourati and Seth Wilkinson were present on behalf of the property owner. The array was constructed under the original Order of Conditions (DEP File # SE79-344) for the array at 234 Middle Point Road issued in 2014. The purpose of the new Notice of Intent is to revise the monitoring and maintenance protocol based on the data that has been collected over the last five years. Wilkinson has been nourishing the beach as required based on the protocol approved under the original Order. Now that they have had experience at the site they are looking for authorization to adjust the protocol the same as that for the rock revetment and array on the adjacent property at 208 Middle Point Road.

By letter dated January 10, 2020 submitted as part of the Notice of Intent, Wilkinson Ecological Design requested that the original work protocol be replaced with the Work Protocol of Maintenance, Monitoring, and Nourishment to Fiber Roll Array dated January 8, 2020, and that the new Order of Conditions include the following:

- 1) Sand nourishment shall be conducted annually, in the month of March, with a single application of compatible sediment and shall equal a volume of 95 cubic yards. In the event that the pond level of Tisbury Great Pond is higher than the level of the beach in the month of March, the applicant shall request written permission from Natural Heritage

and Endangered Species Program to access the beach in April, and upon approval, will supply West Tisbury Conservation Commission with the written permission.

- 2) If the occurrence of a significant storm event or series of events cause the beach profiles to drop below the historic beach profile as determined by the project engineer, the applicant may restore the beach through sand nourishment to the previous profile with advance notice and approval from the Commission or its agent.

The first condition is based on the average of the total amount of compatible sediment that was needed to nourish the fiber rolls for each year from 2014 through 2019. The amount takes into account the actual volumes used to maintain the sand depths that were specified in the original Order (depth required was 12”). A once a year nourishment amount of 95 cubic yards will lessen the number of times the beach is accessed by equipment and will be more sustainable of the project overall.

Seth explained that the conditions for the original project were somewhat experimental as no one knew how well the array would hold up in this location and provided time to understand the coastal processes at this site.

The need to nourish the beach was triggered anytime the coir logs or gabions were exposed and/or the depth of sand covering the fiber rolls and gabion baskets at the top, middle, and bottom of the array was less than 12’. When met, the array had to be nourished immediately. Over the last 5 or 6 years, the trigger was helpful to see how often storms caused the threshold for nourishment to be met. As soon as they could access the beach, the array would be covered.

The other reason for changing the nourishment protocol for 234 Middle Point Road is to make it consistent with the nourishment schedule for 208 Middle Point Road.

Seth and George determined that it would be better to use an average of the amount of sand put down over time. Seth acknowledged that it is a higher volume than was originally proposed. His client is committed to do this every year provided there is a beach for access.

The justification for the second condition is that if there was a catastrophic storm event in the estuary that lowers the beach profile considerably, they want to have some mechanism for restoration to the original site plan elevations of the beach. Seth said that hopefully, this will never happen, but in his experience and from a regulatory standpoint, it is helpful to have a condition that addresses this possibility. Seth clarified that he is not trying to create an implicit approval without coming back to the staff or full commission.

The second component of this Notice of Intent addresses the access point for nourishment events at the southern end of the array at 208 Middle Point Road and the array at 234 Middle Point Road. The area in question is shown as Map 39 Lot10 (225 MPR). Access will be over the new driveway that runs through Map 39 Lot 9 (226 MPR) to this property. Previously, staging and stockpiling occurred at 208 Middle Point Road. A small bobcat was used to travel over the roadway between the properties that runs parallel to the bank. Now that this road has been reduced in size to a walking path, the applicant is asking permission to use the new driveway to

234 Middle Point Road. The new access route is shown on a plan submitted with the NOI dated January 10, 2020.

The project plan indicates that the applicant is asking for permission to apply up to 25 cubic yards of material to “maintain a land form.”

Seth explained that the addition of the sand on this bank being proposed is a simple way of addressing concerns the Commission had about surface runoff on this section of coastal bank where there is a lack of vegetation. Seth described the area as being at the bottom of the watershed and has tight soils. The owner’s landscaper has transplanted huckleberry and other plant materials into this area to mitigate the surface runoff. The proposal for placing sand on this bank is for mitigation of this surface runoff, rather than to “protect the land form as this section of land is no longer part of the access to the house. George said that the bank has to be restored after the equipment has gone over the bank.

The conditions stated in the Natural Heritage and Endangered Species Program letter dated July 29, 2020 were read for the record.

Commissioner’s Comments/ Questions:

Maria read written comments submitted by Peter Rodegast into the record; “I support the coordination of the of the 2 different nourishment efforts if there are no negative effects with regard to timing. The amount of nourishment added should be limited as per the two sets of conditions. With regard to adding fill to the unprotected portion of shore, I do not think there is justification, in that there is no shore protection interfering with natural erosion.”

Geraldine asked what happens if the bank is not nourished and if there is a policy on this issue. Maria said there is no policy; it is governed by the regulations. Nourishment projects are not usually approved to protect vacant land.

Binnie said getting the driveway moved was critical because it was the only access to the house.

Maria asked for clarification on the second condition. The original Order has a condition regarding removal and disposal of the array in the event they are beyond repair and a condition that set up a \$25,000 escrow account held by the Town in the event the current or successor property owner does not perform the monitoring, nourishment or removal as required under the SE79-344) She asked how proposed condition # 2 dovetail with the original order.

Seth replied that the original order did not contemplate restoration in the event of a major change in the beach elevation only if there is damage to the array. (See special condition # 19 of the original order that describes the process for removal and repairs.) The nourishment budget is based on an average that has worked well. If there is a severe event, they want to have a mechanism

Whit asked if there is a mechanism in the event of an emergency. Seth answered that if a State of Emergency is declared, DEP will issue emergency provisions, but it would not cover changes in the beach elevation. Emergency provisions usually deal with storm damage clean up. In the event of a catastrophic event, it would depend on conditions on the ground at the time.

There was brief discussion about procedural steps to handle the ongoing conditions in the Certificate Compliance. Seth suggested that the Certificate of Compliance for SE79-344 state that the new order will supersede by the new order.

Seth said he is planning to ask for a Certificate of Compliance immediately after it is issued.

John said it makes sense to decide about the applicants request for the 25 cubic yards of material being placed on the coastal bank if the hearing is to be continued.

Seth explained further that this area is a 10 to 12 foot area where the trucks come in. They do not need the full 25 cubic yards. They need some sand to build a sand ramp and a way to address the ongoing surface runoff that will continue regardless of what is done

Maria suggested the wording on the plan be changed from “replace up to 25 cubic yards per year of compatible sand with each nourishment at 234 Middle Point Road to maintain land form” to language that states the sand will be used to create a ramp.

A motion was made and seconded to continue the public hearing on this application to September 8 at 5:10PM to allow time to prepare a new set of special conditions and for the project plan to be revised. Roll call vote: Binnie, Geraldine, John, and Whit voted in favor. Note: Donna was present but did not vote. In the absence of a quorum at the next meeting, Donna will be able to vote on this matter.

New Business: There was no new business to discuss.

Old Business: State Forest: Maria reported that she spoke to Kristen Geagan for an update. The draft report is circulating for comment between DEP and DCR. A copy of the report will be provided to the board when the review is completed.

Administrative:

Revisions to Bylaw regulations on view channels and buffer zone: Geraldine provided additional comments today. Maria will revise the draft accordingly and redistribute.

Certificates of Compliance:

A motion was made and seconded to approve Certificates of Compliance for the following Orders of Condition:

- Map 39 Lot 11/ DEP File #SE-344/234 Middle Point Road: he ongoing conditions in this Order will be superseded by the new order to be issued under DEP File # SE79-415.
- Map 39 Lot 7 DEP File #SE 79-271 and DEP File #SE79-354/ 208 Middle Point Road

Roll call vote: Binnie, Geraldine, John, and Whit voted in favor.

Correspondence:

In:NHESP letter dated July 29, 2020 re: Map 39 Lots 10 and 11

There being no further business to conduct, the meeting adjourned at 6:05 PM.

Respectfully submitted,

Maria McFarland
Board Administrator