

WEST TISBURY  
CONSERVATION COMMISSION  
MINUTES OF MEETING  
June 28, 2022

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, Whit Griswold, Angela Luckey, Donna Paulnock, Peter Rodegast and Michael Turnell

**Absent:** Geraldine Brooks

**Staff Present:** Janice Haynes

**Also present for all or part of the meeting:** Sarah Doyle, Peter and Nellie Rabinowitz, and Reid Silva

**Minutes:**

The minutes of the May 10, 2022 meeting were approved as revised. Roll Call Vote: Angela -aye, Donna – aye, Fred – aye, Michael – aye, Peter – aye. and Whit – aye.

The minutes of the May 24, 2022 meeting were approved as revised. Roll Call Vote: Angela -aye, Donna – aye, Fred-aye, Michael – aye, Peter – aye, and Whit – aye.

The June 14 meeting was canceled because of a lack of quorum.

**Public Hearing**

**Map 35 Lot 1.9/SE79-440:** a public hearing under the requirements of M. 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 Blue Heron LLC for a project to create and maintain a 4' wide mown path, install a 4'x4' ramp, 29' elevated boardwalk, 64' fixed piling pier, 5' ramp and a 10' seasonal floating dock in Town Cove on Tisbury Great Pond. The project location is 99 Pond View Farm Road.

The required letters from the Division of Marine Fisheries ( DMF) and the Natural Heritage and Endangered Species Program ( NHESP) have not been received. Whit asked Reid if he wanted to continue the public hearing or proceed. Reid said there are a couple of abutters present so he chose to make his presentation.

**Issues Discussed:**

- Length and height of the structure: Length is related to the water depth and based on Reid's calculation of high pond. There are no other piers within 300 feet of the proposed location. Height as proposed may require a railing.
- Need for overall length of 80ft.
- Boardwalk: Boardwalk length is designed to get floats over the water at high pond. It will not extend over a salt marsh so it will not trigger the DMF requirement for height over a salt marsh.
- Lack of water depth at low pond; potential for float to bottom out at low pond. There are collar stops on the floats to prevent grounding the float at the end. Reid estimates there will be 6" of water under the dock at low pond.

- Boardwalk: Seasonal Structures: The regulations require the components to be removed from the pond and stored out of the buffer zone. The dock is designed so that the only the pvc pipes remain in the water during the off season.
- Shellfish Habitat: Will need to determine if there are shellfish beds in the foot print of the dock. While Town Cove is closed to harvesting shellfish it is mapped as habitat.
- Chapter 91 License: This dock will also require a Chapter 91 license that will be applied for if the dock is approved by the Commission.

#### Commissioners Comments/Questions

Fred asked about the length of the Foster's dock on the Chilmark side of the cove. He wanted to know if there is a standard length for docks. Reid said there isn't a standard because the length is determined by water depth. Reid offered to find out the length of other docks in this cove.

There was a discussion about the length of the dock. Reid used Edgartown Harbor as an example of a town with no restriction on length. Fred questioned the use of Edgartown Harbor as comparable to Town Cove.

Peter noted that steel posts will be put into the pvc pipes that will remain in the substrate when the dock is removed for the winter. He asked Reid if there was any alternative design.

Members then discussed possible modifications to the design that would make this structure more acceptable and have less impact especially to the substrate. There was mention of using a small footing that sits on the substrate.

Public Comment: Peter Rabinowitz commented that the comparison to Edgartown Harbor isn't a good one. A longer pier would be an issue for navigation. He commented that Town Cove is not unobstructed by piers. There is a sand bar in this area at low tide. (This should be confirmed.) The proposed location is not in a very wide section of the cove. In his opinion, this structure will change the nature of the character of the cove. (While there was concern expressed about the visual and aesthetic impact of such a structure, the regulations do not protect these interests. )

Whit commented that the board has to work within the framework of the regulations noting that a structure cannot be a hazard to navigation. Reid added that DEP will address the issue of length with respect to navigation. Whit asked if their boat could be pulled up on shore or rollers used versus having a dock.

Sarah Doyle made several points about this proposal. She is concerned about the visual impact of this structure. She told the meeting there is a large sandbar that was visible for 4-5 weeks last summer at low pond and that she was able to walk out to this sand bar at low pond. She asked about public access over the dock. It was explained to her that under chapter 91, access over the stairs at the bank is required to be provided.

There were some questions and uncertainties about the type of boat the Fosters will be using at this dock. Apparently, the Fosters have a 10-person pontoon boat. Some one commented that such a boat will have a hard time getting across the cove at low pond. Sarah pointed out that there is gentleman's agreement to limit outboard motors to 10 hp.

A motion was made by Peter seconded by Fred to continue the public hearing on this matter to July 12 at 5:45 to allow the applicant time to submit a redesign of the dock. Roll Call Vote: Angela -aye, Donna – aye, Fred – aye, Peter – aye, Michael-aye, and Whit – aye.

**New Business:**

**Map 25 Lot 1.1/Associate/ Farmers Market: Letter to MVC regarding car counter.** Whit noted the letter to be sent for the record.

**Old Business:**

Bylaw revisions view channel edits review – Discussion tabled  
Blackwater Brook Farm/ Runamuck Farm and Leonard-Peck Farm/ update - tabled  
Doane/Eppel/Eppel lawsuit DCSC Docket # 2174CV00030 against CC dismissed 5/27/22 noted for the record

**Administrative:**

Site visit day - tabled  
Bylaw revisions view channel edits review- tabled  
Blackwater Brook Farm/ Runamuck Farm and Leonard-Peck Farm/ update- tabled  
Doane/Eppel/Eppel lawsuit DCSC Docket # 2174CV00030 against CC dismissed 5/27/22

There being no new business to discuss, the meeting adjourned at 6: 21 PM.

Respectfully Submitted,

Maria McFarland  
Board Administrator  
APPROVED  
AUGUST 9, 2022