

WEST TISBURY
CONSERVATION COMMISSION
MINUTES OF MEETING
November 13, 2018

Present: John Brannen, Prudy Burt, Whit Griswold, Binnie Ravitch, Peter Rodegast, Michael Turnell and Tara Whiting

Staff Present: Maria McFarland

Also present for all or part of the meeting: Deb Hancock, Carlos Teles Filho, James Rebello and Reid Silva

The meeting was called to order at 5:05 P.M. at the West Tisbury Library. Tara Whiting, Chairman presiding.

The minutes of the October 23 meeting were approved. Prudy and Michael abstained.

Public Hearings:

Map 35 Lot 6.15: 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 Jon McNeill for a project at 160 Plum Bush Point Road owned by Philip W. Spalding, Trustee of Spalding Investment Realty Trust. The project consists of landscaping and creation of view channels within the Buffer Zone accessory to a new single family dwelling to be constructed outside the Buffer Zone, construction of a 34' raised boardwalk through a Bordering Vegetated Wetland and an 80' long seasonal pier with fixed pilings and seasonal ramp and float. The DEP File Number letter and the NHESP comment letter have not been received so the hearing will be continued.

Reid submitted revised pages of the Notice of Intent and an additional filing fee. No comment letters have been received from DEP or Natural Heritage and Endangered Species Program. The Division of Marine Fisheries comment letter was read for the record.

All structures, the well and septic system are outside the Buffer Zone. The project consists of three parts: 1) clearing around the house within the Outer Buffer Zone (50 feet from the edge of the resource area, 2) a boardwalk through a bordering vegetated wetland and salt marsh, and 3) a dock with ramp and float in a salt pond.

The following bylaw performance standards for docks and piers were reviewed and discussed at length:

1. Only seasonal piers will be permitted.
2. Docks and piers are accessory structures and will only be considered for a lot that has a primary structure on it. Docks and piers may be permitted only on land and over water contiguous to the dwelling served.

The dock will be 4 feet wide. A float is needed because of fluctuation of the water level in the pond. Float stops will keep the float 18” above the substrate in order to meet the performance standard that there will be no bottom scouring by a float.

The salt marsh performance standard requires a walkway to be elevated in order to allow for light penetration. The applicant prefers to use locust planking with one inch spacing but they could use fiberglass grating if the board felt it was necessary to address comments in the DMF letter.

Maria will ask for clarity on the DMF letter regarding light penetration under the dock.

PVC sleeves would be installed using a skiff with a driver/ jackhammer. Otherwise the work will be done mostly by hand.

Commissioners’ Comments/Questions

Prudy: stated that it is the board’s policy not to discuss view channels until the house is framed and windows are in place.

Prudy asked Reid if it was the applicant’s intention to go ahead with the application under the Wetlands Protection Act, and to come back after the house is up to ask for the dock under the local bylaw so as to be in compliance with the bylaw performance standard that docks will only be considered for a lot that has a primary structure on it.

Reid said he disagreed that the board doesn’t approve view channels before the house is constructed and cited the Dreier project in Seven Gates as an example of a new house where view channels were approved. Maria reminded the board that the Dreier project is not a comparable project. The view channels at that property were well established prior to the existing house being torn down. Reid added that his client wants to buy this property and would like to know that the dock is permissible.

Tara said she spoke to the building inspector regarding permitting accessory structures if the main house isn’t built. She said that under the Zoning Bylaw Joe will issue a building permit for the accessory structure but it can’t be built until the house is constructed. This allows the property owner to apply for both at the same time but the permit is conditioned to prohibit the construction of the accessory structure until the house is at a certain stage of completion. Tara suggested the board could place similar conditions on this project.

Reid said he thought that the project in and of itself is permissible, and can be conditioned so that the dock not be constructed and no trees cut until the house is constructed.

Prudy said Reid should know that the board always works with applicants but that the bylaw is clear regarding a dock being constructed on a lot where no house exists.

John said he agreed a dock can’t be constructed unless there is a house.

Binnie suggested that maybe the bylaw needed to be amended to be more specific.

Peter said the view channels relate more to the final building. He wants to avoid overcutting the view channel before the house is there. With respect to the dock he would consider approving the dock with conditions.

Reid said the board could write the Order of Conditions to require that the house be built before the dock is built. Maria suggested that there could be a condition that if the sale of the property to the McNeil's does not go through and Philip Spalding remains the owner, the Order of Conditions is null and void.

Mike said the house should be there before the views are approved. There are already views there. He didn't have any comment on the dock.

Maria informed the members that the Planning Board deemed this lot to be wooded based on a site visit with no review of this project plan, allowing the height of the house to be 24 feet. While, the height of a structure is not a concern of this board she asked the board if they wanted to formally call this to the attention of the Planning Board. The board did not.

The project plan shows a significant amount of clearing to create a lawn in the second fifty feet of the Buffer Zone but there is no square footage stated on the plan. Reid explained that there is no landscape plan for this project.

Maria pointed out that the Notice of Intent states that there will be Bordering vegetated wetland alteration of 3,700. She asked if any of this was salt marsh. Reid responded that the alteration to the bordering vegetated wetland is for the view channel. Maria asked if this alteration is really just bordering vegetated wetland or a combination of bordering vegetated wetland and salt marsh. Maria said the board has never permitted alteration of a resource area for a view channel that didn't previously exist.

It was noted that the Fialkow and Kaufman docks that are also in this cove existed prior to the adoption of the local bylaw.

Prudy suggested that the board hire a consultant at the applicant's expense to review the wetland delineation and to assist the board with applying the regulations to this project. Reid asked why Prudy is questioning their delineation on this particular project.

Reid said the board should decide if this dock is permissible based solely on whether there are impacts to the resource area such as impacts to vegetation or too many docks in this cove and not on whether the house is built first or if the sale of this property doesn't happen.

With respect to Prudy's desire to hire a consultant regarding the wetland delineation Maria reviewed the issue she had with the conflicting information in the Notice of Intent.

John said he would like to have more information on what constitutes a seasonal pier. Maria said the board should read the Small docks and piers guide that reviews the wetlands and waterways guidelines.

Reid said he will provide more detail on the amount of alteration in the resource areas and Buffer Zone.

Public Comment:

Deb Hancock, the buyer's broker, asked if it would be helpful to the board if her client could come to the next meeting. She doesn't think they expect to get a clear cut view channel. The plan is based on the fact that the buyers haven't been able to see the property since the summer.

Tara replied that the applicant is more than welcome to come to the next meeting.

A motion was made and seconded to continue the public hearing on this motion to November 27 at 5:10 PM. All in favor.

A motion was made and seconded to hire a consultant at the applicant's expense to review this project in its entirety. The vote on the motion was 6-0-1. John abstained.

Map 35 Lot 9: 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 Teles Landscaping on behalf of Blue Heron Farm LLC for a project located at 99 Pond View Farm Road. The project consists of the removal of invasive vines from Eastern Red Cedars at the top of the coastal bank and the relocation of Eastern Red Cedars from the Buffer Zone to other locations onsite.

The DEP and NHESP comments letters have not been received so the hearing will be continued.

James Rebello reviewed the resource areas shown on the project plan. The applicant would like to relocate 40-50 Eastern Red Cedars to areas along the property boundaries to provide screening and remove a few invasive vines from several Red Cedars that sit on top of the bank.

The hedge of cedars is within the first 25 feet of the Buffer Zone. The only work on the top of the bank is the invasive species removal.

Commissioner's Comments/Questions:

Tara said that she would not be amenable to approving the removal of these cedars.

Prudy asked if there was any plan to remove invasives and add native species. Carlos said that if the owner wants to do more invasive removal work they would come back for a new permit.

James replied that there are only a few trees that have invasive vines that need to be removed. There is no plan to do any clearing cutting of vines on the bank.

It was agreed that removing the cedars that are in the Outer Buffer Zone is not an issue.

Michael said that when that many trees are moved using a with a tree spade it opens the area up to the introduction of invasive species.

Carlos replied that after the house is built (outside the Buffer zone) the property owner will come back with a different application to create a meadow.

The applicant's representative was asked to delineate the No-Disturbance Zone and the No Build Zones on the project plan and to submit a written description of how they plan to replace the plugs.

John answered that the applicant isn't calling this a view channel but in effect that is what they are proposing.

A motion was made and seconded to continue this public hearing to November 27 at 5:30 PM.

New Business:

Map 32, Lots 15, 33 and 34/Private utility line maintenance work/ exempt activity: Maria reported on her site visit with Sue Hruby. No action needed.

Map 39 Lot 11/ 234 Middle Point Road/ Beach Nourishment: Maria informed the board that this work would take place on November 14. No action needed.

North Tisbury Bridge/ Pedestrian and bike access: Maria reported on a meeting and site visit with Jen Rand, Dan Doyle, MVC Transportation Planner and representatives of Howard, Stein, Hudson an engineering firm working with the MVC to possibly develop a plan for a " path" to move pedestrians and bikes to avoid going over the bridge alongside cars. This project is being looked at by the Complete Streets Committee and the Board of Selectmen. It is not a MA Department of Transportation (MADOT) project.

Prudy asked is this project would be in the state highway lay out and if there was a plan. Maria replied that here was no project plan yet and there was no consensus on any of the ideas that were discussed.

Prudy also wanted to know if there was any discussion about signage at this meeting that was discussed at a Board of Selectmen's meeting a few months ago. There was not. Maria will ask Jen if she has spoken to MADOT.

Old Business:

Mill Pond clearing: Maria said she asked Kent Healy if he needed any additional clearing work around the Mill Pond. Kent said he was fine with the clearing around the spillway but would like some of the vegetation cleared on the bank so he can get his boat into the water. The

board agreed that the area could be cleared up to 10 feet wide. Maria will coordinate this with Kent and Jesse.

Water Withdrawal Bylaw: Members discussed Skip Manter’s proposed changes to this document.

Other than adding the word “adopt” in the first sentence the board did not entertain any of Skip’s changes. Members will review the Town of Rochester bylaw. Further discussion was tabled to the next meeting.

Correspondence:

Beach Monitoring Plan/ Lambert’s Cove Beach 10/29/18
Map 1 Lot 50/SE79-270/ Monitoring Report # 17/ No action needed

There being no further business to conduct, the meeting adjourned at 6:35PM.

Respectfully submitted,

Maria McFarland
Board Administrator
APPROVED