

WEST TISBURY
CONSERVATION COMMISSION
MINUTES OF MEETING
December 11, 2018

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

Absent: Michael Turnell

Staff Present: Maria McFarland

Also present for all or part of the meeting: Deb Hancock, Doug Hoehn, Mal Jones, Greg Milne, Heidi McNeil, Reid Silva and Philip Spalding

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

The minutes of the November 13 meeting were approved as revised. All in favor.

The minutes of the November 27 meeting were approved as written. All in favor.

New Public Hearings:

SE79-391/Tiah's Cove Road culvert replacement: 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 the Town of West Tisbury for a project to replace a failed culvert under Tiah's Cove Road at the head of Tiah's Cove near the entrance to the Land Bank's Sepiessa property.

Reid Silva presented the project.

The design specifications and construction sequence were discussed in detail. The culvert consists of an 18" corrugated metal pipe that has rusted away at the bottom. The headwalls have started cracking and coming apart. Both sides of the stream were surveyed. The upstream channel is not well defined. The applicant used the better defined downstream channel to determine culvert size and the makeup of the substrate through the culvert.

The replacement culvert will be open bottomed and has been designed to meet the MA Stream Crossing Standards to the extent practicable. It was noted that the DEP file number letter stated that this was, "an excellent example of how to meet the stream crossing standards to the maximum extent practicable."

The replacement culvert will eliminate the scour pools on both side of the downstream headwall. The substrate to be created within the culvert is shown on the project plan and will mimic the natural stream channel along the culvert bottom.

The other option that would allow the design to better meet the stream crossing standards would be to build a bridge, but that is a more costly and larger project.

A 12" w x 30" l diversion pipe has been proposed to divert the flow during construction. It may need to be longer. This can be determined by the contractor.

The dewatering area is not shown on the project plan. It was suggested that the two vegetated drainage swales about 60 feet west on Tiah's Cove Road be used. Dewatering will be needed on a temporary basis during the installation of the side panels.

The project will be done in two sections to allow traffic to continue along the road. Work will be done at a dry time of year when there is a favorable 5 day forecast, preferably timed to coincide with a pond opening.

Public Comment: Mal Jones gave the members some history of stream crossings in this area. Mal suggested that the town should look to buying property on higher ground to provide access to houses in this area as sea level rises.

The public hearing was closed. A motion was made and seconded to approve the project as presented. The vote on the motion was 5-0-1. Whit abstained.

A motion was made and seconded to approve the following special conditions:

- Intermittent dewatering will happen at the two drainage swales to the west of the culvert.
- Time of year restrictions.
- Add conduit if it is determined to be necessary.
- Diversion pipe to be of sufficient length.

All in favor.

Map 39 Lot 2.1/SE79-392: 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 Schofield, Barbini & Hoehn on behalf of Thomas and Christina Shropshire owners of 147 Middle Point Road Assessors **Map 39, Lot 2.1**. The project consists of the creation of two view channels by selective clearing, maintenance of an existing path to Thumb Cove, and construction of a set of stairs to the beach accessory to the construction of a new single family dwelling to be located outside the Commission's jurisdiction.

Peter Rodegast recused himself from the public hearing because of his relationship with South Mountain Company who is working for the applicant.

Greg Milne and Doug Hoehn presented the project.

The applicant would like to build a set of stairs over the coastal bank to eliminate erosion caused by people climbing down the bank and create two view channels.

Members reviewed a cross section of the stairs. No pressure treated wood will be used.

In the southern view channel along the path to the beach 2 trees would be cut and 7 trees pruned in the No-Disturbance Zone, 3 trees cut and 2 trees limbed in the No-Build Zone, and 13 trees cut and 2 limbed in the Outer Buffer Zone.

In the northern view channel around the pond 4 trees would be cut and 1 tree limbed in the No-Disturbance Zone and 2 trees cut in the No-Build Zone. There is no work proposed in the outer buffer zone in the northern view channel.

Work will be done by hand and the wood left or removed as the board requires.

Commissioner's Comments/Questions:

Prudy asked if they gave any consideration to building a set of stairs that could be removed seasonally. Greg replied that they could look into this request. He explained that the top of the bank is at elevation 19. There is a 6 foot drop to the water line from the top of the bank.

Prudy replied that high pond during Hurricane Bob was around elevation 9NGVD. High pond is usually between 5 and 6 feet NGVD.

Doug said the elevations are relative. He used an assumed benchmark from other work done years ago and that they would have to go out and survey to get the elevations to NGVD. The plan will be revised to show low and high pond elevations relative to NGVD.

With respect to approving view channels, Prudy said the Board has an excellent track record of working with applicants and have never denied view channels. Plans change a lot during construction and the board has found it is better to wait until the house is up to determine what will serve the house that is built.

Doug responded that the applicant has no plans to do any of the proposed work until after the house is up.

Greg stated that they usually design the house based on the views and the board wants the house built before the view channels are approved.

It was explained that typically, the board requires the applicant to do all clearing outside the Commission's jurisdiction first, then clearing in the outer buffer zone. Often the applicant will find that they need less clearing in the Inner Buffer Zone if they work from the house toward the resource area.

Maria noted that the NOI did not include a request to maintain the under growth to a height of 5 feet above grade in the Inner Buffer Zone but that it is mentioned in the waiver request. No work is proposed on the top of the bank. Tara replied that the board doesn't usually allow for straight line of pruning. Prudy added that pruning should be species specific.

The hearing will remain open until the comment letter from NHESP is received.

A motion was made and seconded to continue the public hearing on this application to January 8 at 5:10 PM. All in favor. The quorum on this hearing will be Prudy, Whit, Binnie and Tara.

Continued Public Hearings:

Map 35 Lot 6.15/SE79-390: 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.

Reid Silva updated the board. The applicant has decided to withdrawal their request to construct a new path, boardwalk and dock from this Notice of Intent. The view channels have been refined to center on two living spaces, and will end at edge of the resource area rather than extend to the pond edge. The house foot print is now more defined. They have added a meadow to be created between the lawn and the

Outer Buffer Zone. The creation of a meadow consists of brush cutting the understory, tilling the soils staying away from the roots of trees that will remain. Meadow grass seed mix to be used.

There was a lengthy discussion about how this board determines what a view channel is. The state definition of vista pruning was read for the benefit of the applicant.

Peter said the hearing has to be continued but felt the applicant has heard the board's concerns.

Reid asked the board if it would conditionally approve the proposed meadow. Later they would come back for approval for the view channels.

Reid said he isn't planning to submit anything to NHESP until he knows what the board will approve. The original approval under MESA was for 2.2 acres of alteration within Priority Habitat.

The board agreed that they can approve the work within the outer buffer zone and that a meadow is permissible.

Prudy asked if the septic system would be an advanced denitrifying system citing the performance standard for coastal salt ponds that requires new construction to install appropriate measures to reduce septic nutrient discharge amounts. Reid responded that the septic leach field system is more than 100 feet away from the resource area and that the Board of Health has already approved the septic system design. (The leach field is approximately 330 feet from the pond.)

Public Comment: Heidi McNeil said she is worried that they are going to spend a lot of money to buy this property and they want to be able to have some guarantee that they will be able to have the views they want.

Heidi said the house location is pretty much set because of the proximity to the neighbor and the desire to be on the high spot on the property.

At the request of the applicant, a motion was made and seconded to continue the public hearing on this application to January 8 at 5:40 PM. All in favor.

New Business:

MVAS/Signage along the Panhandle Road: After a brief discussion a motion was made and seconded to send a letter to the Board of Selectmen stating the Commission's opposition to approval of no parking signs along Panhandle Road because of concerns that it is not in the spirit of the APR. All in favor.

Old Business:

MVAS/ APR meeting: Tara updated the members on the meeting with the Board of Selectmen, officers of MVAS and Town Counsel. The upshot of the meeting was that MVAS will provide the town and the APR holders with a list of planned activities that would be approved. Any additional events would require approval. Essentially Ron will issue a new opinion letter on whether they are in compliance with the APR.

Tara said the new question is whether or not the APR holders should sign off on beer and wine licenses for events.

Tara does not think that approving projects where beer and wine are served is in the spirit of the APR. It was noted that when the Town was dry, no one raised any concerns with beer and wine being served. No action was taken.

Water withdrawal bylaw: Maria updated the board on her e-mail conversations with Ron Rappaport, Town Counsel. Ron would like to meet with members of the board and Cindy Mitchell to discuss this bylaw in detail. Maria will make arrangements for a meeting with Ron.

Administrative:

The board will meet on December 12 at the Library to discuss meeting procedures and policies.

Correspondence:

In: DEP File No letter for Tiah's Cove Road culvert
NHESP comment letter for Map 35 Lot 6.15
Email from Tom Della Rocco transmitting seed mix information for Map 39 Lot
7
Map 38 Lot 7.12 Copy of letter from Jay Theise, Esq. to Board of Health and
Building Inspector dated 12/10/18.

There being no further business to conduct, the meeting adjourned at 7:15PM.

Respectfully submitted,

Maria McFarland
Board Administrator
APPROVED