



APPROVED MINUTES
CONSERVATION COMMISSION MEETING
DATE: 2/16/23 TIME: 6:30 PM
PRESENTED ON A ZOOM PLATFORM

IN ATTENDANCE:

Chris Macfarlane (CM), Chair
Tom Bell (TB), Vice Chair
Kathy Berigan (KB), Secretary
Will Ashton (WA), Member
Eric Eisenhauer (EE), Member
Chris McIntyre (CI), Member

STAFF IN ATTENDANCE:

Charlotte Pechtl (CP), Conservation Agent
Angela Geso, Recording Secretary

6:30 PM: Call to Order ~ Open Meeting
Roll Call Attendance: T- Bell – Aye; K. Berigan – Aye; W. Ashton – Aye;
E. Eisenhauer – Aye; C. McIntyre – Aye; Macfarlane - Aye

ABBREVIATIONS USED:

NOI – Notice of Intent; SWP- Stormwater Permit; DMF – Division of Marine Fisheries;
LSCSF - Land Subject to Coastal Storm Flowage

NOI 23-05 and SWP 23-04: 49 Border Street – Demo and Rebuild – Whoriskey

In attendance: Jeff Hassett (JH)/Morse Engineering; Sean Papich (SP)/Landscape Architect

Documents Presented: Site Plan, SWP Calculations, O&M Manual, Structural Plan

The property was built in 1895. Runoff flows towards Border Street to a catch basin in the road. The property is mapped as being in a FEMA floodplain and is designated as LSCSF. The applicants propose to demo the existing property and build a 2,700 sq. ft. single family dwelling. Work in the buffer zone includes 1,800 sq. ft. that was previously developed and 27 sq. ft. in the 50 ft. buffer zone that will be trenched to pick up stormwater. The new home will be elevated on concrete piers. The previous home and paved driveway are being removed which will decrease the impervious surface. There will be a crushed stone trench around the perimeter of the property to capture roof runoff. There will be no tree removal. They plan to bring the structure into FEMA compliance. SP said all plantings are taken from the native plant list and everything should function well. They are taking out the lawn and replacing it with plantings. CM asked how well porous asphalt function and JH said it's a steep site with a small yard, but the work will be an improvement. CM suggested that the applicant maintains the porous asphalt with no sanding and minimum salting if needed. It is crucial to maintain the mulch beds. TB and JH discussed elevations, porous pavement and power washing. TB asked about bank-run gravel as being somewhat less permeable but JH said the least permeable solution would be gravel. He explained that porous asphalt has been approved by the commission for other projects. He also stated that the owners will power-wash the pavement on a monthly basis because DEP requires it. EE asked JH to explain the "rare and unusual" clause and JH said it's a rare property that's small and developed and that they are improving the conditions by removing the foundation, using concrete piers, and stabilizing the site. The crushed stone trench will also improve conditions.

- MOTION:** By Chair Macfarlane to close the public hearing for NOI 23-05 and SWP 23-04 and issue an Order of Conditions for work proposed at 49 Border Street with no special conditions.
- SECOND:** Member Eisenhauer
- ROLL CALL VOTE:** W. Ashton – Aye; T. Bell – Aye; K. Berigan – Aye; E. Eisenhauer – Aye; C. McIntyre – Aye; C. Macfarlane – Aye.
- MOTION PASSES:** 6-0-0 Unanimous
- MOTION:** By Chair Macfarlane to issue a variance for work within the 50-ft. buffer zone.
- SECOND:** Member Eisenhauer
- ROLL CALL VOTE:** W. Ashton – Aye; T. Bell – Aye; K. Berigan – Aye; E. Eisenhauer – Aye; C. McIntyre – Aye; C. Macfarlane – Aye.
- MOTION PASSES:** 6-0-0 Unanimous
- MOTION:** By Chair Macfarlane to issue a variance for a greater than 1,000 sq. ft. alteration within an area of coastal storm flowage.
- SECOND:** Member McIntyre
- ROLL CALL VOTE:** W. Ashton – Aye; T. Bell – Aye; K. Berigan – Aye; E. Eisenhauer – Aye; C. McIntyre – Aye; C. Macfarlane – Aye.
- MOTION PASSES:** 6-0-0 Unanimous
- MOTION:** By Chair Macfarlane to issue SWP 23-04 for proposed work at 49 Border Street.
- SECOND:** Member Eisenhauer
- ROLL CALL VOTE:** W. Ashton – Aye; T. Bell – Aye; K. Berigan – Aye; E. Eisenhauer – Aye; C. McIntyre – Aye; C. Macfarlane – Aye.
- MOTION PASSES:** 6-0-0 Unanimous

NOI 23-04: 50 Black Horse Lane - Pier, Gangway and Float - Baranoski

In attendance: Jeff Hassett (JH)/Morse Engineering

Documents presented: Site Plan, Construction Plan

The property has 150 ft. of frontage on the Gulf River. Brad Holmes of ECR performed a restoration inspection on the site. The applicant is proposing to build a residential dock with a removable 3-ft. x 24-ft. gangway, a removable 10-ft. x 20-ft. float, a 4-ft. wide pier and stop blocks instead of skids. DMF says there is a minimum ratio of 1 ½-in. to 1-in. for the saltmarsh. JH said there are four (4) piles at each corner with boards going across. CP said we normally issue recommendations for stop blocks. TB asked if the float will be seasonally removed and stored, and JH said it would be. CP said to use this information for a special condition of the permit and that the float be stored out of the resource area as well. CI talked about the negative impact of piers and fillings on shellfish and the letter from the DMF with six (6) comments that should be addressed. TB said it looks like eight (8) piles going in and JH said best management practices say that when installing piles, you have to minimize the impact. CI asked about the negative impact of piers and fillings on shellfish. JH said best management practices when installing piles have to minimize impact on the site with no heavy equipment or hydraulics allowed. EE asked if height goes down to 5-ft. how does the 1 1/2 ratio work out and JH said the mean high water is higher than the marsh with the pier at 6-ft. above the saltmarsh and 5-ft. above the mean high water. JH said they will create a temporary catwalk and walk on the saltmarsh only to set up the project.

- MOTION:** By Chair Macfarlane to close the public hearing for NOI 23-04 and issue an Order of Conditions for work at 50 Black Horse Lane with the special condition that the gangway and float will be removed and stored in an upland area during the off-season.
- SECOND:** By Vice Chair Bell
- ROLL CALL VOTE:** T. Bell – Aye; K. Berigan – Aye; W. Ashton – Aye; C. Macfarlane – Aye; E. Eisenhauer – Nay; C. McIntyre – Nay
- MOTION PASSES:** 4-2-0

NOI 23-02 30 Beach Street - Gangway and Float – Hobson (con't from 2/2/23)

In attendance: Caroline Rees (CR)/Merrill Engineering; Keith Walo (KW)/Harbor Moorings

Documents Presented: DMF Letter; Construction Plans

CR said the float size was reduced to 12-ft. x 6-ft. Construction notes were added to limit activities from the barge to mean high water. The plank spacing is increased to allow light penetration across the cross section. The project can be conditioned to not use a pneumatic pump. CM said the DMF recommended stop blocks and CR said they can adjust for stop blocks as they will better balance the load. The DEP has a 1 to 1 minimum ratio for the saltmarsh while DMF has a 1 ½ to 1. TB said the pilings and foot stops are driven to refusal. KW said the measurement is 6-ft. x 6-ft. for the entire dock and it won't tip over. CI said he will continue to vote against dock projects but was told by CP that the commission has to look at projects objectively and cannot say "would never approve" without saying "as presented" and allow for further discussion. TB said we have to stay within the boundaries of the bylaws. CM said DMF recognizes a 1 ½ to 1 ratio, thinks 5-ft. is considerable and says the applicant may want to put in a handrail. CR wants the homeowner and not the commission to determine the railings.

MOTION: By Chair Macfarlane to close the public hearing and issue an Order of Conditions for NOI 23-02 for 30 Beach Street.

SECOND: Vice Chair Bell

ROLL CALL VOTE: T. Bell – Aye; K. Berigan – Aye; W. Ashton – Aye; C. Macfarlane – Aye; E. Eisenhauer – Nay; C. McIntyre – Nay

MOTION PASSES: 4-2-0

MOTION: By Chair Macfarlane to issue a variance for work within the 50-ft. buffer zone at 30 Beach Street.

SECOND: Vice Chair Bell

ROLL CALL VOTE: T. Bell – Aye; K. Berigan – Aye; W. Ashton – Aye; C. Macfarlane – Aye; E. Eisenhauer – Nay; C. McIntyre – Nay

MOTION PASSES: 4-2-0

SHOW CAUSE: 76 Lamberts Lane – No Show (con't to 3/23/23)

DISCUSSION: 256-258 No. Main Street (con't from 2/2/23)

In attendance: Brendan Sullivan (BS)/Merrill Engineering (representing Janice Batts)

BS said he modeled both addresses in the SWP and broke out 256 North Main as a stand-alone model. He has a letter of 2/13/23 from the builder saying that pre-conditions and post-conditions match. CM said when the project started the site was for one (1) property but now it's two separate dwellings. BS said the owner sold the front house because the second house was even considered. CM needs to understand how the site started as a single development and ended up as two with Certificates of Compliance. CP said that neither property has requested a C of C yet as there is still final grading and stabilization to be done.

MINUTES FOR APPROVAL:

11/22/22, 12/1/22, 12/15/22, 1/5/23, 2/2/23

MOTION TO ACCEPT: By Chair Macfarlane

SECOND: By Vice Chair Bell

ROLL CALL VOTE: T. Bell – Aye; K. Berigan – Aye; W. Ashton – Aye; C. Macfarlane – Aye; E. Eisenhauer – Aye; C. McIntyre – Aye

MOTION PASSES: 6-0-0

ALL CERTIFICATES OF COMPLIANCE CONTINUED TO 3/2/23

AGENT UPDATES:

- **91 Atlantic Avenue:** both the NOI and SWP are FEMA compliant
- **68 Whitehead Road:** they are installing SW controls and will start landscaping.

- **46 Hobart Lane:** the building has been demolished and a foundation is being completed; erosion controls are closest to a resource area.
- **55 Gammons Road:** the dock has been approved.
- **8 Spindrift Lane:** The SWP originally for Lot 5 Forest Avenue is now 8 Spindrift Lane; the work is close to the IVW but stays outside the 25-ft. buffer zone.
- **Diab Lane and Howe Road:**
An updated landscaping plan was approved for 3 Diab Lane: there is a utility trench between 3 and 9 Diab; 15 Diab is close to completion; the barriers in front of Howe Road have been replaced to capture sediment; a topcoat was put on the property at 80 Howe Road
- **102 Howe** – all barriers that were downgraded have been replaced and the pool is being worked on.
- **147 South Main Street:** can't find any changes from Conservation and Zoning approval; CP will discuss with Zoning Chair Woody Chittick.

ADMINISTRATIVE SWP'S:

- **31 Windy Hill:** pending a physical request for a Certificate of Compliance.
- **66 Jerusalem Road:** an administrative Certificate of Compliance will be issued.
- **20 Old Pasture Road:** the patio has been made pervious.

The Special Conditions Template is still being looked into. CP is trying to collect knowledge absorbed and put into One Drive for commission members to review and edit.

OTHER ITEMS FOR DISCUSSION

TB said that according to DEP we cannot deny a dock. CP has also been told that from town counsel. TB said we can tighten up our bylaws and should think about what kinds of bylaws and regulations can we come up with to either slow the dock projects down or reduce their impact on marine life. In reference to wetland bylaws, CI asked if we can review the cumulative effects on docks already built. CP said the language in the regulations has never been enforced and that the topic is too big to have a chance at defending it in court. EE said where the dock issue and widespread and not enforceable we should find good examples of effective regulations from other communities and see if we can adopt some of their language. CP reminded the members again not to say "I won't approve a dock application" but to add "as presented". Otherwise, the member will have to recuse themselves from the rest of the hearing. You can vote against a dock permit once the hearing is complete.

With no other business to discuss, a motion was made to adjourn.

MOTION; By Chair Macfarlane to adjourn the Conservation meeting of 2/26/23.
SECOND: By Vice Chair Bell
ROLL CALL VOTE: W. Ashton – Aye; T. Bell – Aye; K. Berigan – Aye; E. Eisenhauer – Aye;
C. McIntyre – Aye; C. Macfarlane – Aye.
MOTION PASSES: 6-0-0 Unanimous

Meeting adjourned at 9:45 PM