



CONSERVATION COMMISSION MEETING MINUTES – January 23, 2017

Present: Scott Mclsaac- Chair, Bob Mosher, Paul Hall, Adrienne DuBois, Laurie Freeman, John Morrissey, Bob Hidell, Loni Fournier- Conservation Officer

Absent: None

The meeting was called to order at 7:07 PM.

Approval of Minutes

Motion: Commissioner Freeman motioned to approve the minutes from the January 9, 2017 Commission meeting.

Second: Commissioner Mosher **In Favor:** All **Opposed:** None

Commissioner Mclsaac read the Public Hearing Notice of Intent.

Notices of Intent

4R Foley Beach Road – DEP 034-1281, continued from 1/9/17

Applicant: Theodore Sharp

Proposed: Demolition and construction of a single family house & driveway

Commissioner Morrissey recused himself from the hearing.

The applicants are proposing to demolish and reconstruct a single family house at 4R Foley Beach Road. The existing and proposed houses straddle the top of the coastal bank and fall within Flood Zone AE, as well as the buffer zone for the coastal beach. The proposed house (1,670 sf) will be constructed largely within the footprint of the existing house (865 sf); expansions are proposed on land that is already disturbed and impervious. The first floor of the proposed house will be constructed one foot above the base flood elevation.

A portion of the existing foundation, closest to the existing patio, will be removed. A new wall foundation will be poured closest to the existing entrance. Fifteen existing house pilings will be removed, due to their poor condition, and replaced with 11 new house pilings. An additional three pilings and two sonotube footings will be installed to support the proposed deck and landing closest to the existing patio (net gain of one piling/footing). The existing flagstone patio will remain in place and be refinished (impervious). The applicants have not finalized their plans for the finished driveway; if it remains in good condition after construction, it will likely be resurfaced and remain as impervious.

Staff visited the site on 1/3/17. The property is fairly small and almost entirely developed. The proposed improvements should not impact the resource areas. The improvements located closest to the resource areas will be constructed on pilings, which will reduce the impacts, accommodate wave action and allow for the passage of flood waters. For the long-term protection of the resource areas, staff recommends prohibiting the construction of an engineering structure, in perpetuity, in order to protect the proposed house.

Theodore Sharp reviewed the project details. He summarized that they will utilize the existing foundation with some minor alterations, not increase any impervious footprint, and add a 1 car garage and mudroom (and one new foundation wall) over current asphalt driveway.

Commissioner Mclsaac invited any comments from the public.

Neighbor Mary Ann Craig, 6 Foley Beach Road, asked the applicant how the flow of seawater under the house might affect the new garage. Mr. Sharp explained that there will be a vent in the closed garage allowing for water to exit and there will be almost a foot step up in to the 1st floor of house. Mechanicals will remain on the third floor.

Neighbor Jim Craig, 6 Foley Beach Road, asked about specifics of the mechanicals location because the current location vents right outside their bedroom window. Jacqueline Sharp explained that mechanicals will be located on the south east side, the opposite side of current location.

Neighbor Ken Corson, Jr., 8 Foley Beach Road, asked what the structure height would be and Mr. Sharp replied that it would be exactly as high as the current structure, 35 feet.

Mr. Craig also asked about the deck location. The new deck will be on the waterside of house. The current deck space will become part of the house.

Mr. Corson asked about the kind of pilings and how they will be installed. Mr. Sharp replied that they would be 9 by 9 square pilings and thought they would be driven.

Commissioner DuBois asked how people access the beach and are they able to walk at high tide in front of the house. Mr. Sharp said that people are able to walk in front of the house and Barbara Wilson, of 1 Foley Beach Road, explained that there is a 10 ft. easement along her driveway that allows for public access to the beach.

With no further public comment, Commissioner Mclsaac closed the hearing to public comment.

Motion: Commissioner Hidell motioned to issue an Order of Conditions for the proposed work at 4R Foley Beach Road, as shown on the submitted plans, and adopt the findings of fact a and b, and special conditions 1 through 17 of the staff report.

Findings:

- a. The project meets the requirements for issuance of an Order of Conditions under the Wetlands Protection Act (M.G.L. c. 131, § 40) and the Town of Hingham Wetland Regulations.
- b. The work described is within an area subject to protection under the Wetlands Protection Act (M.G.L. c. 131, § 40) and the Town of Hingham Wetland Regulations, and will not alter or adversely affect the area subject to protection under the Act or the Regulations.

Special conditions:

1. The applicant shall notify the Hingham Conservation Commission in writing of the name, address, and telephone number(s) of the project supervisor or contractor who shall be responsible for ensuring compliance with this Order and shall notify the Commission, by telephone or writing, at least 48 hours prior to commencement of work on the site.
2. This document shall be included in all construction contracts and subcontracts dealing with the work and shall supersede all other contract requirements.
3. The project supervisor or contractor in charge of the work shall have a copy of this Order available on the site at all times.
4. Prior to the start of any excavation or construction, there shall be a pre-construction conference on the site between the project supervisor or contractor responsible for the work and an agent of the Commission to ensure that the requirements of this Order are understood.
5. Prior to the start of any excavation or construction, erosion and sediment controls shall be installed and inspected by an agent of the Commission; straw wattles and/or hay bales will not be used as a form of erosion or sediment control.
6. Erosion and sediment controls shall remain in place until all disturbed or exposed areas have been stabilized with a final vegetative cover or the Commission has authorized their removal.

7. During all phases of construction, all disturbed or exposed areas shall be brought to a finished grade and either a) loamed and seeded for permanent stabilization, or b) stabilized in another way approved by the Commission.
8. Any debris, which falls into any resource area, shall be removed immediately by hand.
9. Any on site dumpsters shall not be located within 25 feet of any resource area.
10. There shall be no stockpiling of soil or other materials within 25 feet of any resource area.
11. Issuance of these conditions does not in any way imply or certify that the site or downstream areas will not be subject to flooding, storm damage, or any other form of damage due to wetness.
12. No vehicle, or other machinery, refueling, lubrication or maintenance shall take place within 25 feet of any resource area.
13. Before executing any change from the plan of record, the applicant must have the Commission's written approval. Any errors found in the plans or information submitted by the applicant shall be considered as changes. Approval from other Town Agents or Inspectors does not relieve the applicant from obtaining approval from the Commission.
14. There shall be no application of road salt or deicing chemicals onto the driveway because of the importance of the site and any resource areas to the groundwater supply. This condition shall apply in **perpetuity** and shall not expire with the issuance of a Certificate of Compliance.
15. No coastal engineering structure, such as a bulkhead, revetment or seawall, shall be permitted on this property at any time in the future to protect the project allowed in this Order of Conditions. This condition shall apply in **perpetuity** and shall not expire with the issuance of a Certificate of Compliance.
16. The applicant shall apply for a Certificate of Compliance as soon as work has been completed and prior to the expiration of this Order. If work cannot be completed prior to the expiration of this Order, the applicant shall contact the Commission in writing to apply for an extension at least thirty days prior to the expiration date.
17. The applicant shall submit an "as built" plan to the Commission upon completion of this project. The plan shall be signed by the professional engineer of record, who shall certify that the work has been done in accordance with the approved plans and this Order. This plan must be submitted prior to the issuance of a Certificate of Compliance by the Commission.

Second: Commissioner Mosher

In Favor: All

Opposed: None

73 Abington Street – DEP 034-1275, continued from 12/19/16

Applicant: MDC Properties – Abington Street LLC

Representative: Gabe Crocker

Proposed: Day care facility

At the last meeting, Paul Brogna discussed his initial comments on the proposal. The applicant continues to address his comments, conducting additional test pits on January 18, 2017 and meeting with staff from the Hingham Fire Department on January 20, 2017 (per Mr. Brogna). As of January 19, 2017, the applicant had not submitted any new information to the Conservation Department.

The applicant requested to continue to the hearing to the February 6, 2017 meeting.

171 Otis Street – DEP 034-1282

Applicant: Gary Jacobson

Representatives: David Ray, Land Surveyor & Engineer and Attorney Adam Brodsky

Proposed: Reconfiguration of existing pier & floating docks

This hearing is continued from the January 9, 2017 Commission meeting. The Commission asked the applicant to revise their plans to include a helical anchor system for the proposed floats. The applicant submitted revised plans on January 18, 2017. The helical anchor system is reflected on the plans and the proposed pier structure was also reduced in size, however it does not meet the current performance standards for docks and piers (HWR Part 2, Section 23.4).

The original proposal included a 26'x8' ramp, a 18'x42' pier, a 20'x4' aluminum ramp (gangway) and four 24'x8' floats for an overall length of 131.5' (approximately 12' of the gangway will overlap with the proposed pier and first float). The

revised proposal modified the dimensions of the pier to 18'x26', keeping the overall length the same, but reducing the number of pilings overall (15 original, 12 proposed) and the number of pilings that will be driven into existing salt marsh (6 original, 2 proposed).

Since the last meeting, the Harbormaster provided the Conservation Department with a copy of the letter that he submitted to the DEP, in response to the applicant's Chapter 91 License application. The Harbormaster indicates that the proposed pier will impact the safety of a busy water ski area and the health of shellfish habitat. The Harbormaster's Office also checked for prior 10A permits for 171 Otis Street and did not find any permits, dating back to 2007. (Seasonal floats require a 10A permit from the Harbormaster's Office.)

The demolition and reconstruction of the pier at 171 Otis Street presents an opportunity to mitigate prior environmental damage and minimize future environmental damage through the application of state regulations and BMPs for constructing docks and piers, and Part 2, Section 23.4 of the HWR.

Attorney Adam Brodsky, reviewed the project and described the changes to the original proposal. He noted that they had emailed the Conservation Office, a copy of their response to the Harbormaster's letter to DEP from the previous year (this was included in the Commissioner's packet). He stated that the end of the proposed pier would be more than 270 feet away from the landward side of the waterski area. He also stated that, in regards to shellfish, the proposed pier is in growing area GBH1 and is currently a conditionally restricted site; they would be willing to perform a shellfish survey and if any were found, relocate them.

David Ray brought a sample of the proposed ThruFlow decking. He felt that by using this decking and with the height of the proposed pier, the salt marsh will thrive. Mr. Brodsky suggested that, were they to follow the regulations, it would have greater impact on the resources than what they've proposed. Their concern with a year round pier structure is the winter damage from ice and, by using seasonal floats, they eliminate that.

Commissioner Hidell asked what the floats are made of. Mr. Ray responded that they are 'accepted pier flotation for standard dock construction' and further described it as a solid polyvinyl product encapsulated in a sealed container.

Mr. Brodsky expressed his belief that this proposal, as a pile supported structure, only requires a Chapter 91 license issued from DEP as opposed to an annual 10A permit from the Harbormaster (he acknowledged that there may be a mooring vessel fee).

The Conservation Officer asked why they filed for a new Chapter 91 license; Mr. Brodsky explained that the old license was a time based license, approved as an 'interim approval' for 30 years or when the property sold. The property was bought by the Jacobsons' and so they applied for a renewal.

Commissioner Morrissey made the comment that the proposal doesn't come close to complying with the regulations. He asked the Conservation Officer her opinion and she reiterated her belief that this qualifies as new construction and therefore should adhere to the regulations. She explained further that her position has to be to support the regulations. Commissioner Morrissey stated that it's the Commission's job to have one set of rules for everyone. Mr. Brodsky repeated that that if they are required to adhere to the regulations it would result in a 150 foot pier with 30+ pilings; Commissioner Freeman clarified that 150 feet is the maximum, not a requirement.

Discussion followed regarding impacts. Mr. Ray commented about winter impacts on a pier; that straight ice can grab piles and pluck them out resulting in a pier structure routinely requiring work, furthering the impact to the resource area. Commissioner Freeman stated that the present discussion is one that might occur if it were a meeting to revise the bylaws, but this is not the case. Mr. Brodsky made the case that the Commission has the discretion to issue a variance of the regulations. Commissioner Freeman stated that in this case the variance required would be so far from the specific regulations it would reduce them to vague guidelines. She made clear her reservations about permitting something that doesn't adhere to the regulations and that if the regulations need revisiting there is a process for that and it is not at a project hearing.

Further discussion followed regarding pier construction (Thruflow decking is not being used on floats), wetland regulations flexibility/inflexibility, fairness to other applicants (prior and future), safety, and protecting the salt marsh.

With differing opinions, the Commissioners all agreed that more time was needed to study and consider the issue. Setting a precedent is a concern, as is fairness to previous applicants.

Mr. Jacobson asked to continue the hearing to give the Commission more time to consider the project.

Commissioner Mclsaac invited any comments from the public. With no public comment, Commissioner Mclsaac closed the hearing to public comment.

Motion: Commissioner Hidell motioned to continue the hearing for 171 Otis Street, DEP 034-1282, to March 27, 2017.

Second: Commissioner Morrissey **In Favor:** All **Opposed:** None

Other Business:

The Conservation Officer attended the Board of Selectmen's meeting and the revised bylaw fee schedule was approved. The next step is for the Conservation Commission to formally adopt it. Public legal notice in the Hingham Journal will follow and postings around Town Hall and other public places. Seven days after posting, the new fee schedule becomes effective.

Motion: Commissioner Morrissey motioned to approve the revised wetlands protection bylaw fees.

Second: Commissioner Mosher **In Favor:** All **Opposed:** None

The meeting adjourned at 8:52 PM.

Submitted,

Sylvia Schuler, Administrative Secretary

Approved on January 23, 2017