

Town of Wareham
Conservation Commission – Minutes
February 21, 2024

Location: Wareham Multi-Service Center, 48 Marion Road, Wareham, MA, Room 320.

The following record pertains to a meeting held by the Wareham Conservation Commission at 6:00 PM local time. A video recording of this meeting is available for viewing. The record of the proceedings includes the videotape of the meeting, the resolutions passed, and any document presented during the course of the meeting.

PRELIMINARY BUSINESS

Present: Chairperson, Sandy Slavin, Carol Malonson, Michael Mercier, Autumn Wood, Paulajean O'Neill, Donna Cobert, and Joseph Stihl. **Absent:** Mr. Bartie, Jessica Parr and Ms. Schulz.

Conservation Administrator, Joshua Faherty was present.

PUBLIC HEARINGS: 6:00 PM

Request for Determination of Applicability (RDA)

1. **Warren 176 Main St. QOZB LLC, 176 Main Street – RDA-36** – Site improvements include crushed stone parking and circulation areas, subsurface drainage system, handicap parking area, concrete patio, grease interceptor, and sanitary manhole installation and other site improvements such as shown on the plans

Ms. Malonson read the advertisement for the record.

Present for the applicant, Brian Grady of GAF Engineering.

Mr. Grady reviewed the minor revisions for 176 Main Street. He said there was minor landscaping and striping in the parking area. He said they are adding a grease trap in the front parking area and sewer manhole to connect to the municipal sewer system. He stated the property was only subject to land subject to coastal flowage.

Mr. Faherty and Mr. Grady reviewed to make sure they were reading the same plans. Mr. Grady will forward the updated plan to Mr. Faherty. Mr. Faherty had no concerns.

Mr. Mercier asked if there would be handicap parking signs at the site. Mr. Grady said the accessible area will be in the back parking lot and labeled and paved; the rest of the parking lot is crushed stone.

Mr. Mercier made a motion to close the public hearing which was seconded by Ms. Malonson. The motion passed unanimously. (5-0-0)

Mr. Faherty recommended a Negative 2 and Negative 5 determination.

Motion to approve: Ms. Malonson motioned to approve with a Negative 2 and Negative 5 determination, which was seconded by Mr. Mercier. The motion passed unanimously. (5-0-0)

Notice of Intent (NOI)

1. **Cullan McKenna, 3 East Edgewater Drive – NOI 45** – Upgrade a septic system adjacent to a Coastal Bank within Land Subject to Coastal Storm Flowage and the River Front Area.

Ms. Malonson read the legal advertisement for the record.

Brad Bertolo was present to review the project to upgrade the septic system.

Mr. Faherty stated that the septic was an improvement and had no comments. He did address the brush that was cut on the side of the property. Mr. Bertolo stated he removed (and noted) on the plan of an old dock sitting on the coastal bank. Mr. Faherty stated the property looked like it needed to be cleaned up.

Ms. Wood addressed the two trees near the soil absorption system and asked if they would be removed. Mr. Bertolo said one of them would be removed.

Ms. Slavin asked if the raised beds were to be removed and asked about runoff. Mr. Bertolo said the pitch runs away from the house.

Ms. Malonson made a motion to close the public hearing which was seconded by Mr. Mercier and passed unanimously. (5-0-0)

Mr. Faherty recommended the standard order of conditions and suggested the Commission should discuss the lifeboat and pruning in the area.

Motion to approve: Ms. Malonson made a motion to grant the project with a standard order of conditions, the lifeboat to be removed from the resource area and for construction material to be removed as well. Mr. Mercier seconded the motion and it passed unanimously. (5-0-0)

2. Hamilton Beach Association, Inc. 0 Worrall Avenue – NOI 44 – Beach Nourishment on the east end of Hamilton Beach, 1-17 Reynolds Avenue

Ms. Malonson read the advertisement for the record.

Representing the applicant, Mr. Grady from GAF Engineering. He reviewed the project as a beach nourishment project in response to storm damage and erosion and looking to place 400 yards (approx. 20 truckloads) of sand to restore the natural contours of the beach. He said they'd be looking to dump at access to the beach. He said they'd be using a small 4d machine and it would take four to five days to complete. He stated they would add a sand fence to protect the beach grass.

Mr. Faherty stated the material needs to be approved prior. He stated that historically the commission has not allowed machinery on beaches, but it is not a requirement from the Wetland Protection Act.

Mr. Grady said it is not an uncommon occurrence to have excavators on the beach if the appropriate equipment is used.

The Commission discussed erosion control and the low slope area. Mr. Paster, the President of the Hamilton Beach Association spoke about the last time this was done (in the 1960s) and how they are moving forward with it now.

There was no public comment.

Mr. Faherty recommended like material, no disturbance of the grass area, equipment on the beach can be allowed, no burning of the winter sand fences. He stated they are waiting for comments from MESA.

Motion to continue: Mr. Mercier made a motion to continue to March 6, 2024, which was seconded by Ms. Malonson. The motion passed unanimously. (5-0-0)

3. Donna Gully, 4 Seahorse Lane – NOI 43 – Upgrade a failed sewage disposal system

Ms. Malonson read the advertisement in for the record.

Mr. Grady, GAF Engineering was present for the applicant. He reviewed the project to upgrade a failed sewage disposal system. He said they will fill in an old cesspool and it'll be all hand labor. He stated they will use a short section of siltation fence.

Mr. Faherty had no comment. There were no questions from the board members. Ms. Slavin asked if it was town property. Mr. Grady confirmed it was, but there was an old well at the property that is not in service.

There was no public comment.

Mr. Mercier made a motion to close the public hearing which was seconded by Ms. Malonson. The motion passed unanimously. (5-0-0)

Mr. Faherty recommended the standard order of conditions.

Motion to approve: Mr. Mercier motioned to approve with the standard order of conditions which was seconded by Ms. Malonson. The motion passed unanimously. (5-0-0)

CONTINUED PUBLIC HEARINGS 6:45PM
Request for Determination of Applicability (RDA)

Notice of Intent (NOI)

- 1. Prime Engineering, 370 County Road, Wareham MA –** To construct a large-scale ground-mounted photovoltaic solar array. (2809) (Continued to February 21, 2024)

Mr. Mercier made a motion to continue Prime Engineering to continue to March 20, 2024, which was seconded by Ms. Malonson. The motion passed unanimously. (5-0-0).

Mr. Faherty stated that there had been a lot of revisions to the plans from the Planning Board and that the Commission's peer reviewer was now reviewing. Mr. Faherty stated that the plans seem to be outside of the 50' buffer zone.

- 2. Fearing Hill, LLC & County Road 2004 Realty Trust, Hidden Trails, off County Road, Wareham MA –** To construct roadways, utilities and stormwater management systems associated with a proposed residential 56-lot cluster subdivision (2815) (continued to January 17, 2024)

Engineer, Brad Bertolo was present along with Peter Teitelbaum for the applicant.

Mr. Teitelbaum first reviewed the project with plan revisions that were updated on January 10th. He reviewed the plans that would be shown tonight which are color-coded maps and stated they wanted to review the changes that were made to the plans that were posted online today.

Mr. Bertolo handed out hard copies of the plans they were reviewing.¹

Mr. Bertolo reviewed the changes to the resource areas. He identified wetland pockets, isolated wetland areas and a proposal for 1400 sq ft of wetland alteration. He stated they were before the Commission for approval for the roadway only at this time for this single-family 56-lot subdivision.

¹ Fearing Hill, LLC plans dated 2/9/24

He said that most of the work is buffer zone work only. He reviewed the sand area in the open space. He stated they had an emergency overflow ditch; and a 100-year storm overflow drainage. He asked for a continuation once the discussion was over.

Mr. Faherty asked Mr. Bertolo if he wanted to review any of the 21-E report.

Mr. Bertolo stated they received a two-page summary of the report, he said that the report is probably about 400 pages worth and hasn't received the full report. He said the document is on-line and nothing is proposed in the sand area. He reviewed some of where the samples were taken and there is no reportable hazard materials in those samples. He said it was a clean site.

Mr. Teitelbaum stated that previously, abutters stated there were hazardous materials on the site which is not accurate. He said there is a lot of trash on the property and must be cleaned up, but it's trash and not hazardous material. He said from an environmental perspective the site is very clean.

Mr. Faherty stated he would hold his final comments until they receive the full report from the peer reviewer.

Ms. Wood who asked if there was a hydrology report done in the area. Mr. Bertolo stated there was only a direct impact on one of the wetlands on the property.

Ms. Slavin asked about the pond and access points to it. Mr. Bertolo stated that under this application there are none, he said around the pond there may be. He said there is a pre-existing path to the pond right now. Ms. Slavin asked if the homes would have sump pumps, and Mr. Bertolo stated they would not. Mr. Bertolo explained a few of the lots will have drywell runoffs.

Ms. Slavin asked about the cutting of the trees and to what extent with the roadway currently or the houses when/where the trees will be cut. She said she was concerned about saving some of the old trees.

Ms. Slavin opened it up for public comment.

Katheryn Haroldson asked if the public would be given more information for the information provided tonight. Ms. Slavin said there is a lot to approve, and this is just the start.

Ms. Nancy McHale was present and asked about the re-vegetation and the soils. She said the coastal pine bearings habitat in that area should be looked at and any plants planted should be the same as is existing. She said they should be looking at conserving native species as much as they can. She asked about the maintenance of the intricate stormwater system and who would be ultimately responsible. Mr. Teitelbaum stated the responsibility would go to the Homeowners Association.

Ms. Kathy Pappalardo, Fearing Hill Road asked about the road going through and if there will be drainage throughout. She also asked if it would be a Town Road. Mr. Bertolo stated it would have drainage and is going to be a Private Road.

Mr. Bertolo asked for a continuance to March 6, 2024.

Motion to continue: Mr. Mercier motioned to continue to March 6, 2024, which was seconded by Ms. Malonson. The motion passed unanimously. (5-0-0)

3. **Russell McKinnon, 28 Nelson Street, Wareham MA** – Raze and existing house at 28 Nelson Street, increase the size of the dwelling by 280 sq ft, and create a 10-ft wide gravel drive (February 21, 2024)

Motion to continue: Mr. Mercier made a motion to continue 28 Nelson Street per the applicant's request which was seconded by Ms. Malonson and passed unanimously. (5-0-0)

4. **Michael & Liana J. Dancey, 2 Seahorse Lane, NOI -42** – The applicant proposes to demolish a cottage, construct a single-family dwelling, install a septic system and associated utilities, construct a formal driveway, widen the existing gravel roadway and to fill and grade partially within the 100ft buffer of a Bordering Vegetated Wetland and within Land Subject to Coastal Storm Flowage, Flood Zone VE (el.20) (February 21, 2024 Continued)

Motion to continue: Ms. Malonson made a motion to continue 2 Seahorse Lane to March 6, 2024 which was seconded by Mr. Mercier and passed unanimously. (5-0-0)

5. **Ronald & Susan J. Schmidt, 15 Narrows Road – NOI -41** – The applicant proposes to demolish a cottage, construct a single-family dwelling, install associated utilities to construct a formal driveway, and fill and grade within the 100' buffer zone of various coastal resources areas and within Land Subject to Coastal Storm Flowage, Flood Zone VE (el. 17) (March 6, 2024)

Motion to continue: Mr. Mercier made a motion to continue per the applicants' request which was seconded by Ms. Malonson and passed unanimously. (5-0-0)

EXTENSION REQUESTS

CERTIFICATES OF COMPLIANCE REQUESTS **AMENDED ORDER OF CONDITION REQUESTS**

ENFORCEMENT ORDERS

1. **Canedy Street LLC, 4 Canedy Street, Wareham MA** – Construction of retaining walls and grading within 100 buffer to a Coastal Bank and Salt Marsh

Mr. Faherty stated they have until March 6, 2024, to reply with a Notice of Intent and he hasn't heard anything. He said someone signed for the certified letter.

OTHER BUSINESS/DISCUSSION AND/OR VOTE/BILLS

1. **Review and accept minutes – January 17, 2024 & February 7, 2024**

Ms. Slavin stated there were comments made for revision. Mr. Mercier motioned to approve the January 17, 2024 minutes which was seconded by Ms. Malonson. The motion passed unanimously. (5-0-0)

Mr. Mercier motioned to approve the February 7, 2024 minutes which was seconded by Ms. Malonson. The motion passed unanimously. (5-0-0)

2. **Bills, Appointments, Interviews & Reappointments:**

3. **Administrative Approvals**

4. **Bylaw Revision Update**

5. **Workshop – Permits- Determination of Applicability (DOA)**

6. Vote to approve acceptance of donation of 33 Indian Neck Road

Mr. Faherty stated this property was donated by John Decas many years ago, it was approved at Town Meeting ten or fifteen years ago, but never followed up on. He said that the Town has first order of refusal to accept the donation. Mr. Faherty stated they should move through the process again and asked if the Commission thinks it should be accepted by the Town, then they would make that recommendation to the Selectboard and then the Town Meeting again.

Ms. Malonson made a motion to recommend to the Selectboard of 33 Indian Neck Road to accept the property under the control of the Conservation Commission which was seconded by Mr. Mercier and passed unanimously. (5-0-0)

7. PBIA Jetty in Pinehurst

Mr. Faherty reviewed the recent approval of the jetty in the Pinehurst area and stated in the process of jetty being repaired there was work done without permitting that included the sand. He stated there was a recommendation from MA DEP to receive an amended order of conditions for that work and that a new abutter notification wasn't needed.

Mr. Moore, as one of the trustees of the association, was present. He explained what was done with the jetty and the sand that was pushed back toward the jetty. He explained the jetty had deteriorated and a lot of sand erosion was taking place. He said the footings were being exposed, sand moved 50-75' upstream of erosion because of the jetty being gone; now that it's in place and when the contractor and town officials were out there they asked if they could move the sand back; everyone agreed so they went ahead and pushed it back approximately 20 yards downstream toward the jetty.

Mr. Moore explained they didn't have a problem replenishing the sand but wasn't sure where it would go.

Mr. Faherty recommended an amended order of conditions for the work that was done in moving back the sand or replenishing the sand from where it was.

Ms. Slavin said she is leaning toward beach nourishment as a formal amended order of conditions of moving of the soils without permission or alteration without permission.

Ms. Wood asked if this was fineable, Ms. Slavin confirmed it was.

Ms. Cobert asked if the work being done was told to the Homeowners Association. Mr. Moore said that it was decided at the time that the work was done. He said they didn't see it as a significant operation.

Resident Ann Taylor stated she was concerned about the jetty and ongoing erosion. She said the jetty was put there to avoid erosion, so replenishing would make sense. She said the sand was removed without notifying anyone and stated that the neighboring sand was lowered and put near the jetty. She said as a result there was water at the bottom of the seawall and potentially compromised.

Mr. Moore said that the sand moved was on association-owned property only. In some cases, the cottage-owned property is owned by the association.

Abutter, Sheila Marinucci, stated there was no communication. She said they understood the plan was to put a jetty in front of their wall 15' she said they moved it.

Ms. Marinucci added that sand nourishment is encouraged. Ms. Taylor stated they would like the hire of a hydrologist privately to review. Ms. Slavin stated it would be up to the association to hire that person if they wanted to do that.

Mr. Ponatio of 14 Circuit Avenue was present and expressed concerns about bulldozers on the beach. He said he was concerned with what was being said tonight regarding the land being owned by the association. He expressed concerns that there was no communication from the Association of what they were doing. He said that the sand was moved from his neighbor's area to the front of the jetty.

Susan Taylor asked if the sand was going to end up back where it was why was the jetty even approved. Ms. Slavin stated the intent was to help the scouring behind it. She said the jetty is now functional and prior it was in disrepair.

Ms. Slavin stated they are here because that's what was done, the sand was moved and not permitted.

Mr. Moore stated they do have surveys that they own the property in question.

Ms. Slavin said they would wait for the amended order of conditions and then discuss the nourishment of the beach. Mr. Faherty stated that the applicant was guided through the abutter list by the previous agent and that the amended order of conditions there was no issue with the abutter list. DEP said that the Commission has approval of the abutter list. Mr. Faherty stated he could review the abutter list, Ms. Slavin said they should use the same abutter list as the NOI. Mr. Moore said direct abutters to either side, perhaps six or eight individuals were notified. Mr. Faherty recommended an abutters list for all affected in this area. Ms. Slavin recommended abutters that were notified through the NOI be notified for the next meeting. Mr. Faherty recommended they could send to abutters in the whole area with no return receipt.

Donna Hanson asked if a permit is needed to have a bulldozer on the beach. Mr. Faherty explained there were no regulations that a bulldozer can or cannot be on the beach.

Mr. Faherty recommended continuing to March 20th meeting for an amended order of conditions. Mr. Faherty recommended a recertification notice to the abutter list from NOI and perhaps the rest of the abutters by regular mail.

8. Workshop – Permits – Request for Determination (RDA) and Determination of Applicability (DOA). No discussion

Ms. Malonson made a motion to adjourn which was seconded by Mr. Mercier and passed unanimously. (5-0-0)

Date Signed: 3/26/24

Attest: SS Slavin

Sandy Slavin, Chairperson
WAREHAM CONSERVATION COMMISSION

Date copy sent to Town Clerk: 3/26/24

*accepted 3/26/24
vote 5-0-0*

