

**Present:** Chairperson DeeDee Holt, John Geiger, Carol Scott, Paul Chamberlin, Billie Bates, Bob Lear, Steve Kuzma, Associate Member Stephanie Hamilton, Conservation Agent Kristin Andres and Secretary Mary Fougere.

**Absent:** Associate Member Jackie Meaney

**David's Lane, Brickman:** The property owner was present in response to a violation involving mowing, loaming and seeding and installation of irrigation on an adjoining parcel owned by the Conservation Foundation and within the jurisdiction of the Conservation Commission.

Documents for Review:

- Timeline Narrative dated Nov 7, 2011, prepared by Terry Eldredge
- Ortho Pho Plan pgs 1 and 2, dated 11/7/2011, prepared by Eldredge Surveying & Engineering LLC
- Photographs submitted by applicant
- All other documents submitted to file to date

Ms Andres reported that to date and in response to the Enforcement Order, the kayak rack has been removed, the irrigation system has been removed, the property line has been staked and the Commission is in receipt of plans showing the delineation of the Commission's jurisdiction. There is no restoration plan to date, however the Commission was not prepared to review a restoration plan until they have had time to review the new information. Mr. Brickman stated that Theresa of Wilkinson Ecological Design will develop a restoration plan that will include both restoration and monitoring of the area. The Commission felt that the planting season is coming to an end and there is probably not enough time to develop and implement an adequate restoration plan. From the audience, members of the Conservation Foundation agreed with this assessment.

Mr. Brickman apologized to the Commission and stated that he purchased the property in 2001 with a view easement over a portion of the Foundation property. He mowed the Foundation lot as the previous owner had done; he admitted that he knew he was doing landscaping work that led to this violation on Conservation Foundation property. Subsequently, Mr. Brickman re-constructed the dwelling which was completed in 2005. Mowing had stopped during the construction; he started mowing the area again in 2005, probably at least two times annually. Since he was maintaining his view easement, Mr. Brickman asked if the Commission would consider reducing the fines imposed on him and contractor Edson Eldredge.

Ms Andres noted that there was an Order of Conditions issued for the construction of the dwelling. The limit of work for that project was set at the property line. Discussion ensued regarding the installation of fencing or some

other permanent marking of the property line. Mr. Brickman was reluctant to install split rail fencing.

In response to the request to suspend or reduce the fines, several Commissioners expressed their reluctance to do so. Commissioner Bates reminded the applicant that the Agent has spent a lot of time on this violation and public dollars have been expended for the Agent's time dealing with one person's wrong-doing. The view easement issue is a civil matter. Mr. Chamberlin observed that Mr. Brickman had a view as shown in the photos before he cleared the underbrush and still has one today, so it becomes a moot point.

**It was moved, seconded and unanimously voted to expect the homeowner to have a restoration plan developed for discussion at the December 14, 2011 work session. The plan should be received by the Commissioners one week prior to the meeting, by December 7. In the mean time, Commissioners will go to the site to view the extent of the violation.**

**33 John Gilpin Lane, Charwich Realty Ventures, SE 10-2434 and SE 10-2736:** In response to a request for a Certificate of Compliance, the Agent visited the site on November 7, 2011. She found several violations and issued a letter dated the same day to the applicant and his representative detailing the specifics. Terry Eldredge of Eldredge Surveying & Engineering LLC and Paul Revere, Esq. represented the applicant.

Documents for referral:

- Memorandum dated Nov 9, 2011 from Terry W Eldredge, L.S
- Copy of Conservation Restriction , not yet executed
- Copy of an contract for the monitoring of the mitigation plantings for a 5-year period, not yet executed
- "As-built plan" dated 10/26/2011
- All other documentation submitted to file to date

In addition to the violations cited in the letter from the Agent, the Commissioners questioned the density of the mitigation plantings.

Mr. Revere stated that the washing of the paintbrushes and the failure of the erosion control hay bales did not rise to the level of a serious violation. Commissioners Lear and Chamberlin were concerned that Mr. Revere thought there were different degrees of violation and that the ones on this site are incidental. Essentially, the Order of Conditions was not followed; this is problematic on many job sites when the owners/contractors etc do not read and comprehend the Special Conditions.

Mr. Eldredge questioned why the Commission had restricted 160 ft from the top of the inland bank rather than 100- ft that is the Commission's jurisdictional line. It

was stated by several Commissioners that Mr. Rudnick offered a deed restriction during the hearing process, there was never any mention of the distance. Because there was not enough room for the mitigation plantings required under the regulations for the deck construction, the Commissioners allowed the applicant to plant outside. The Conservation Restriction protects those mitigation areas up to about the corner of the garage and above the retaining wall on the west side.

Mr. Eldredge would correct the documents he submitted to reflect the 160 ft stipulated in the Order of Conditions.

**The Commission agreed to discuss fines at the November 21, 2011 work session and to review the revised documents.**

**Violation re 37 Chatharbor Lane, Cramer:** Ms Andres was in receipt of a proposed landscape sketch from contractor Warren Nichols. The applicant would like to plant the waterside sloped area. Mr. Nichols has proposed all native plant species, with the exception of a few hydrangeas in the window well areas. The Septic system leaching area has been hydro seeded.

The Commission unanimously approved the landscape plan.

**Ms Andres reminded Bill Riley, Esq. that an Amendment Request for the final landscape plan has not been filed, to date.**

**18712 North Beach, Alison Adams, SE 10-2756:** The hearing was re-opened for a Notice of Intent (NOI) for the proposed re-location of existing camp on same property at 18712 North Beach. J Thaddeus Eldredge of Eldredge Surveying & Engineering LLC represented the applicant.

Documents for referral:

- Demolition protocol, undated provided by Mr. Eldredge
- Project Description, undated, provided by Mr. Eldredge
- Camp Relocation Plan, dated 9/2/2011 revised 11/9/2011
- Response from NHESP
- Pg 120 from the Barrier Beach Management in Massachusetts, Guidelines 1994
- Resource area performance standards
- All other documents submitted to file to date

Mr. Eldredge stated that his most recent proposal is for moving the camp to a site shown on the revised plan and placed on cribbing, 1 ft above the 100-yr Coastal Flood Plain elevation. The cribbing will be located on vegetated dune area. Should the erosion be such that the cribbing is undermined, the camp will at least remain in place and not be washed out to sea to become an impediment to

marine traffic. Mr. Eldredge noted that timing is such that the apex of apogeal tides has passed, so there should be no tidal damage to the camp in this location. He stressed that emotional ties that camp owners have to the North Beach area drive the proposals before the Commission.

The Commissioners were concerned with the following:

- The length of time the camp would be up on cribbing; the definition of “temporary” in the project description and the concern for the size of the structure to be supported on cribbing
- The request to have an open-ended Order to allow more than one movement of the camp should the need arise
- The use of cribbing does not meet the performance standards for barrier beach and coastal dunes
- The removal of the deck ; construction of temporary steps for access

Discussion ensued regarding the above topics. Commissioner Chamberlin noted that the camp in its current location is not stable with eroding waters coming from two different directions. Given the dynamics of the area, it is hard to believe that the camp can be moved more than once. The Commission questioned whether there was any intent to stabilize the camp in its current location. The cribbing does not meet the performance standards over the long-term. Ms Andres reiterated that there is dune vegetation in the proposed area. When the camps were moved to the Hammatt property a couple years ago, those camps were put in areas with no vegetation. Shading of the existing vegetation and re-shaping of the dune is not permissible under the regulations.

The applicant is seeking to include the demolition in this application, should it become necessary to take down the structure.

**It was moved, seconded and unanimously voted to close the hearing.**

**7 Easy Street, Chatham Family Properties LLC, William Coon, SE 10-2750:**

The hearing was re-opened for an NOI for the proposed construction of screened porch and deck expansion onto an existing dwelling with proposed mitigation planting at 7 Easy Street. No one was present to represent the applicant. The application had been approved by the Zoning Board of Appeals (ZBA) on Oct 27, 2011. **It was moved, seconded and unanimously voted to close the hearing.**

**238 & 294 Cranberry Lane, 4 Winds Trust & 238 Cranberry Lane LLC, Foster Family Nominee Trust, SE 10-2699.** A draft Order of Conditions was reviewed.

It was moved, seconded and unanimously voted to approve the work shown on the Cape Cod engineering Inc Topographic Plan dated 10/11/2011. **An Order of Conditions was signed.**

**Certificates of Compliance were signed for the following projects:**

- 83 Holway St, Chapdelaine, SE 10-648- Revetment
- 157 Sears Road, Bartlett, SE 10-2664
- 44 Cedar Street, Tishman, SE 10-2673; Partial Certificate signed so sale of one lot could go through

**Approval of Minutes:** The minutes of November 2, 2011 were approved as amended at the table.

**Discussion re: Revisions to Regulations:** Regulation revisions are necessary periodically to investigate areas that cause concern when applying regulations to various projects that come before the Commission. Aside from a complete review of the local bylaw, which would probably require hiring a consultant, Ms Andres stressed that there are a couple of areas that are more problematic than others.

The Commissioners agreed that a review of Coastal Bank and Inland Bank definitions and criteria for delineation and codifying the mitigation guidelines are areas that could use immediate attention. There are differences between the geographical location of a bank vs. the less restrictive definition used by engineers.

**The Commissioners agreed to read the bylaw and regulations as currently written and continue the discussion on November 21, 2011.**

The following projects **were approved under Administrative Review:**

- **597 Orleans Rd, Howe:** Trimming of shrubbery as has been completed in the past. Photograph provided. **Unanimous approval.**
- **Lot 19 Valley Farm Road, Gilmartin:** Applicant would like to remove trees growing inside a foundation at Lot 19 Valley Farm Road. The Commission has never permitted the installation of the foundation; the property is under litigation in Land Court. The tree removal would require the use of equipment/machinery. **It was moved, seconded and unanimously voted to require the filing of a Notice of Intent.**

**Adjourn:** It was moved, seconded and unanimously voted to adjourn the meeting at 6:40 PM.

Respectfully submitted,  
Mary Fougere, Secretary