

Present: Chairperson Diane Holt, John Geiger, Paul Chamberlin, Billie Bates, Bob Lear, Carol Scott (left at 10:30), Associate Steve Kuzma (left at 10:30), Conservation Agent Kristin Andres and Secretary Mary Fougere.

No one was absent.

Parcel J 6 John Gilpin Lane, GRS Investments. SE 10-2763: A draft of an Order of Conditions had been revised from the previous meeting. This property was the subject of a previous application in 2008; an Order of Conditions was issued by the Commission on October 30, 2008. Commissioner Lear stated that in that application, the deck extends halfway across the back of the house and the applicant agreed to this location after a lengthy effort to reach a compromise. In the Order, Special Condition #18 addressed the compromise; this Order was recorded at the Registry of Deeds. Mr Lear felt that there have been no significant changes to the application being considered currently, over the original application in 2008.

In January 2011, the applicant sought to Amend the Order by extending the deck across the entire pond side of the dwelling, adding 401 sq ft of additional structure in the outer AURA and thus reducing the amount of mitigation planting he previously agreed upon. The vote for that project was 2 in favor and 2 opposed, therefore no action was taken. The applicant had the option to re-file for a new deck under a new Notice of Intent application.

The CWPR specify that "in general work and activity on land within 100-ft of wetlands should be avoided and discouraged and reasonable alternatives pursued as outlined in 3.01 (3)(d) and 3.02(10 and (3)). Under the Bylaw, an adjacent upland resource area is a protected resource area, and accordingly the commission shall begin with the presumption that lands within the adjacent upland resource areas are best left in an undisturbed and natural state" as written in the pre-amble to section 4.01(1). Discussion ensued regarding the use of "Variance" as is addressed in the Chatham Wetlands Protection Bylaw when a performance standard cannot be met. .

Commissioner Chamberlin observed that the Commission has historically applied the use of mitigation when an applicant cannot meet a performance standard within the 50-ft No-Disturb Zone.

All Commissioners expressed that they were conflicted with this application because Special Conditions #18 was the result of a compromise, the applicant agreed to it and recorded the Order on his deed. the applicant agreed to a compromise and is incrementally attempting to change the deal .

The applicant is now offering mitigation in areas that are already protected in the Bylaw. Under this new filing, the applicant is requesting to remove mitigation area already agreed upon, extend a deck that was the result of a compromise and therefore, the amount of mitigation proposed is not adequate.

The Commission felt that should the applicant offer additional mitigation in the form of a Conservation Restriction, several people would vote in favor of the deck construction as proposed. Environmentally, the pond and the area would be protected in perpetuity from further construction. A Conservation Restriction prohibits further development of the lot in perpetuity.

It was moved, and seconded to approve the application with the understanding that the applicant will accept a Special Conditions requiring that a Conservation Restriction will be imposed on an additional 60-ft landward of the 100-ft delineation to the top of Inland bank as shown on the Eldredge Surveying & Engineering plan dated May 5, 2011 revised June 2, 2011. Discussion ensued on the particulars of the Conservation Restriction. As proposed the Conservation Restriction will dictate the following:

- **Prohibition on future development of the lot, ie installaion of a shed, patio, additions to dwelling, etc in perpetuity**
- **Underground irrigation prohibited**
- **Conservation restriction will be held by the Chatham Conservation Commission; the restriction will be drafted by an attorney and signed by the applicant then recorded on the deed to the property**
- **The applicant will engage the services of Wilkinson Ecological Design to install and monitor the native plantings for a 5-year period**

The vote was 4 in favor of the motion with two opposed.

Clafin Landing, Chatham Bars Inn: Photographs were circulated of a playground that was constructed in the flood plain without benefit of a valid permit.

Ms Andres had initially sent a leeter regarding the need for a filing for the playground and the fence at the property across Clafin Landing. Although Coastal Engineering had filed a Request for Determination for the necessary work, the application was withdrawn by the applicant. Subsequently, the applicant has re-notified the abutters in order to advertise the hearing for the fence only, the applicant will not file an application for the playground. Under the Zoning Bylaw, a filing for the playground is not necessary, however under the

Wetlands Bylaws and the Wetlands Protection Act, the structure is in the Flood Plain and requires a permit.

It was moved, seconded and unanimously voted to issue an Enforcement Order. The Enforcement Order was signed.

**Respectfully submitted,
Mary Fougere, Secretary**