

Present: Chairman Paul Chamberlin, Jay Putnam, Corinne Johnson, Carol Scott, Barbara Skelley, Associate member Keith Hutchings, Conservation Agent Kristin Andres and Secretary Mary Fougere. Commissioner Billie Bates was absent.

**The following applications were not heard:**

**175 Balfour Lane, Norman Stein, SE 10-2468:** Continued on ZBA to Oct 23, 2008; at the applicant's request, the hearing was continued to November 5, 2008

**125 Stage Harbor Road, Daniel/Martha Gregory, SE 10-2486:** At the applicant's request, hearing was continued to October 15, 2008.

**43 Holway Street, Sylvia Habib, SE 10-2249:** Repetitive Petition denied by ZBA; At the applicant's request, the hearing was continued to January 7, 2009

**Fox Pond off Strong Island Rd, Sedge Lane and Rush Drive, Fox Run Association-owners, Jan Hoynacki-applicant, SE 10-:** The hearing was opened for a Notice of Intent (NOI) for the proposed removal of invasives and vegetation control; proposed maintenance of vistas around Fox Pond and on Sedge Lane, Rush Drive and off Strong Island Rd. Mr Hoynacki noted that an Order of Conditions had expired for work in the pond. The proposed work is the same as the last application and involves the same areas. The manner of lily pad removal has changed in that the previous Order allowed hand removal of the plants, this proposal seeks to hydro mow select areas of Fox Pond to remove the lilies.

The hydro mowing consists of attaching a blade-type mower to the rear of a dinghy, rowing into the pond and cutting the stems of the water lilies below the surface of the water. The plants would be raked and collected manually and removed from the site. The work would probably be completed a couple times annually. The Association has yet to hire a contractor; the Commission would like to see a written work protocol once the contractor has been hired.

There is a ramp/roadway that would accommodate vehicle access, however the pathway to the ramp is overgrown.

The removal of vegetation and pruning is the same as was originally approved. The pruning would be completed on a clump of trees to open up the vistas for all the homeowners around the pond. Although there is no tree removal proposed, Commissioner Johnson noted that there are view windows established already and the applicants are seeking to expand views to the east and west. It was noted that there are many Great horned owls in this area and care should be taken to protect their habitat.

The removal of the invasive purple loosestrife was necessary however the removal has to be completed in such a way that the seeds are not scattered. This project should be completed in the fall.

From the audience, Fox Run Association member Marilyn Sullivan spoke in favor of the proposal.

**The hearing was continued to October 15, 2008 for receipt of a file number from the DEP.**

**181 Morris Island Road, Daniel Blanchard, SE 10-2349:** The hearing was re-opened after re-advertisement for the proposed second story addition to a single family dwelling at 181 Morris Island Road. Contractor Robert Liska represented the applicant and returned the abutter notification cards. The proposal has been reviewed already, there are no changes from the previous hearing.

The Commission noted that the lawn in the flood plain appears to have been chemically treated on a regular basis.

The hearing was continued to October 1, 2008 until the proposal is reviewed by the Zoning Board of Appeals (ZBA).

**181 Morris Island Road, Daniel Blanchard, SE 10-2349:** The ZBA had requested comment on the proposal at 181 Morris Island Road. The Commission has reviewed the Felco, Inc plan dated August 28, 2007 for the proposed addition of a second floor to an existing dwelling at the above address.

The proposed work is within a Coastal Flood Zone, elevation 10.0 and the existing dwelling is already on a FEMA-compliant foundation. No footprint changes, grade changes or changes in existing vegetation are proposed.

As no alteration of the resource area is proposed, the Commission finds that this project can go forward with minimal construction activity conditions.

**Old Turkey Farm Lane, John J Schumacher:** The hearing was opened for an NOI for the proposed construction of single family dwelling and guest house; proposed grading & landscaping; proposed repair of existing footbridge and proposed removal of invasive plant species at Old Turkey Farm Lane. Susan LaDue of Eastward Homes, David Lyttle of Ryder & Wilcox and Seth Wilkinson of Seth Wilkinson Ecological Design represented the applicant; Mr Lyttle returned the abutter notification cards.

The property is 3 ½ acres and used to be a farm with several structures on site. The construction of the home and garage will occur within the 50-100 ft buffer of the wetland. The construction of the guesthouse is entirely outside the jurisdiction of the Commission. Historically, mowing has occurred from Cross Street to the edge of the wetland (pond). The applicant has stopped mowing within the jurisdiction of the Commission since he purchased the property this year but would like to maintain some meadow area by mowing two times annually. Established native shrubs will be avoided when mowing.

The proposed construction will disturb 33 % of the 50-100 ft AURA; the foundation will be elevated , there is no new grading on the wetland side, several steps and hardscape is proposed to avoid grading.

There is an existing pathway that goes almost entirely around the wetland that will be maintained by gravely mowing. An existing footbridge will be repaired to the exact shape and footprint as currently exists. A diagram was submitted showing the details of the bridge repair.

Seth Wilkinson has provided a land management plan dated July 28, 2008 including a 3-yr management timeline. A detailed re-planting plan will be provided using several varieties of native plants and installing them 5-ft on center. Once planting is complete, the pathway will be restored back to a 4-ft width. The Commission would expect to include approval of the management contractor in the Order of Conditions. In a letter dated September 8, 2008, Mr Wilkinson offered conduct a tour of the subject property to Commissioners.

Letters of concern from abutters Gregg and Laura Kelley and LEC Environmental Consultants representing Jeffrey and Mary Vinik dated September 15 and September 17 respectively, were read into the record.

From the audience, Michael Ford Esquire, representing abutters Murphy and Frizzoli, expressed concern regarding the effects the high water table in this area would have on construction and asked that the house be moved to higher ground outside the jurisdiction of the Commission. Mr Ford felt that the applicant had not provided a reasonable Alternatives Analysis.

Mr Lytle stated that the lot was previously developed and the applicant has provided a substantial amount of mitigation for the increased disturbance in the AURA to the wetland. Additionally, Ryder & Wilcox has conducted extensive soil testing on the site. The dwelling will be connected to town sewer. Wetland Identification sheets were provided to the Commission with the application.

**The hearing was continued to October 1, 2008 for receipt of a revised plan showing the dwelling moved back from the resource area.**

**Lot 4 Kendrick Harvest Way, Eastward Homes Business Trust:** The hearing was opened for an NOI for the proposed construction of new dwelling at Lot 4 Kendrick Harvest Way. Susan Ladue and William Marsh of Eastward Homes were present and returned the abutter notification cards. There was an existing home on this site, the subdivision was approved a couple years ago.

The site is currently grassy, a pathway is used by people maintaining the bog and there is existing vegetation. Approximately 6000 sq ft of area will be disturbed on the site, Mr

Marsh approximated that 40 % of the area in the 50-100-ft area (outer AURA to the bog) will be permanently disturbed. This figure includes the patio and deck. Mr Marsh was reluctant to change the size of the proposed dwelling; the Chair noted that the working bog adjacent to this lot probably has been subjected to chemical use over the years.

In a previous application, view corridors were established, the stakes locating the view corridors were still on the site. Additional view pruning, if necessary, will be proposed in an amendment to this application once the dwelling is complete.

One large tree in the middle of the lot will be removed to construct the dwelling; the Commission questioned how many other trees would be removed within the jurisdiction of the Commission for all the proposed work including re-contouring. In response to questioning by Mr Marsh as to the definition of “a tree”, the Commission agreed that an inventory of trees 3 inches or more should be provided.

Mitigation must be provided; Ms LADue noted that a landscape plan showing size of plantings and density of same will be necessary.

**The hearing was continued to October 15, 2008.**

**94 Main Street, Peter Lacaillade, SE 10-2491:** The hearing was opened for an NOI for the proposed beach access stairs at 94 Main Street. William Riley, Esquire and Roy Okurowski of Coastal Engineering Company Inc represented the applicant and returned the abutter notification cards. Mr Riley noted that there had been a previous proposal for beach access stairs that was denied by the ZBA.

There is a beach at the bottom of the revetment now approximately 60-ft wide. The new, proposed stairs are wooden and will allow safe access over the revetment. The lower section will be in the velocity zone. The Commission asked that the lower section be made to be removable; a revised plan will be provided.

The materials used for construction will be CCA treated, Mr Okurowski stated that there should be no leaching of materials since the timbers will not be under water.

A comment letter from NHESP dated September 17, 2008 was read into the record.

**The hearing was continued to November 5, 2008.**

**Lots 4 & 5A Crow's Pond Road, Leonard/Eva Japowicz:** The hearing was opened for an NOI for the proposed construction of new 121-ft driveway to service future dwelling at Lots 4 & 5A Crow's Pond Road. David Clark of Clark Engineering LLC represented the applicant and returned the abutter notification cards. The original Order has expired. There is a wetland across the street on Crows Pond Rd and the coastal bank on the east side of the lots.

The proposal to construct a driveway according to Planning Board specifications in the panhandle will necessitate the removal of trees and significant excavation. There are no plans for new dwellings currently but the construction of the driveway prior to conveyance of the lot fulfills the Planning Board requirement. The construction of the driveway could be bonded instead of constructed, however. This driveway will service both lots.

A revised stormwater report will be submitted to the Commission; the report was submitted with the original application. A second stormwater drain will be installed as well due to the steepness of the new slope. There is a culvert where the ditch crosses further to the east that drains the ditch.

**The hearing was continued to October 1, 2008 for receipt of a file number from DEP.**

**39 Parliament Drive, Janet Raftery, SE 10-2449:** The hearing was re-opened for an NOI after re-advertisement for an NOI to include the construction of a deck in addition to the proposed construction of an addition to an existing dwelling at 39 Parliament Drive. David Lyttle of Ryder & Wilcox represented the applicant and returned the abutter notification cards. He stated that the plan ( R & W plan dated July 22, 2008) has been revised to show a proposed deck which was intended all along, but the deck had not been included with the proposal for an addition. The addition has been made smaller at the request of the Commission from a previous hearing. The new deck will be in lawn area

According to Mr Lyttle, the coastal bank is at a high enough elevation because of the "borrow pit" on the site so that it would be an extreme storm event that would cause any flooding, even though the flood zone is shown on the plan. The lawn area construction had been approved by a prior Commission in 1996.

Additional mitigation area has been proposed in lawn areas at the top of the bank. The intent is not to disturb natural vegetation and remove lawn area. The Chair noted that the addition is proposed in the Riparian Zone and that mitigation must be provided in a ratio of 2:1 under re-development in the Rivers Act. There has been no square footage calculations of disturbance in the Riparian Zone submitted. Additionally, the landscape plan did not adequately show the plant species or density of proposed plantings.

**The proposal is scheduled on ZBA agenda; the Conservation hearing was continued to October 15, 2008.**

**39 Parliament Drive, Raftery, SE 10-2449:** The ZBA had requested comment on the proposal at 39 Parliament Drive. The Commission has reviewed the Ryder & Wilcox, Inc

plan dated April 14, 2008 revised July 22, 2008 for the proposed construction of an addition and deck on the north side of the existing dwelling at the above address.

All proposed work is within the 50-ft No-Disturb Zone (NDZ) to the top of the coastal bank and within the 200-ft Riparian Zone to a Frost Fish Creek tributary. The work area is currently altered and no native vegetation will be disturbed.

The proposed addition of 307 sq ft will be on a crawl space foundation and the 292 sq ft deck will be elevated above grade on sono tubes. For this increased alteration of the outer Riparian Zone, the applicant has shown an area of mitigation plantings contiguous with naturalized vegetation along the top of the coastal bank. While the size of the mitigation area is not specified, the state will require it to be a minimum of 614 sq ft.

The Commission finds that this project can be conditioned to minimize adverse impact to the above mentioned resource areas.

**11 Crest Circle, Mark/Jane Sherman, SE 10-2411:** The hearing was re-opened for an NOI for the proposed construction of a screened porch and outdoor stairway at 11 Crest Circle. There are no plans ready for the ZBA to date.

**The hearing was continued to November 19, 2008.**

**226 Cedar Street, M Dozier Gardner & Margaret B Gardner, SE 10-:** The hearing was re-opened for an NOI for the proposed conversion of driveway to subdivision road to service a total of three units at 226 Cedar Street. Terry Eldredge of Eldredge Surveying & Engineering and Arlene Wilson of A M Associates represented the applicant. The Commission had requested the following during previous hearings:

- ◆ Letter from Cape Cod Mosquito Control
- ◆ The inclusion of soil data to verify the wetland delineation
- ◆ A list of trees proposed to be planted along the driveway/roadway within the jurisdiction of the Commission

Ms Wilson reviewed the list of trees; the Planning Board had required shade trees and some of the species were not shade trees generally accepted for street design, specifically the Serviceberry. Mr Eldredge stated that the Planning Board will require a pair of shade trees every sixty feet; Ms Wilson suggested that additional Red Maple could be added within the jurisdiction of the Commission, however the serviceberry and other smaller plantings are proposed where the lane is narrow, the larger trees will be used along the rest of the lane.

Ms Andres questioned whether a work protocol for the installation of the utilities would be provided. A dry sewer line will be installed over the culvert. Ms Wilson added that it would not be too difficult to raise the culvert and install a conduit under the ditch and

culvert system to install the water line. Water lines area generally 5-ft deep. There is no crossing of the water and sewer line.

Water will be installed on the west side of the lane, electric will be down the middle of the lane and sewer and gas lines are proposed on east side. There will be excavation on either side to remove unsuitable materials and a construction protocol will be provided well before construction, according to Ms Wilson.

**The hearing was continued to October 1, 2008.**

**226 Cedar St, Gardner:** The Planning board had requested comment on the proposal at 226 Cedar Street. Ms Andres would draft a letter.

**368 Seapine Road, Beth Kressley-Goldstein, SE 10-2469:** The hearing was re-opened for an NOI for the proposed additions/renovations, sewage disposal system upgrade, associated utilities and hardscape changes to existing family dwelling at 368 Seapine Road. William Riley, Esquire and John Schnaible of Coastal Engineering Company Inc represented the applicant.

Mr Schnaible reviewed the construction phase of the project. During the Zoning Board hearing, the applicants had discussed demolition, however the Commission had never discussed partial or full demolition on this project. The Commission thought that the entire house would be lifted, a new foundation installed to meet flood plain construction requirements and then set back down on the new foundation. Mr Riley stated that after hearing Architect Mike Collins at the ZBA hearing, he now understands that on the right side of the house from the land side, above the foundation, will be demolished including the front door. The roof will come off also. The lower level floor has to be lifted to get 1-ft above the flood plain, poured concrete will be added. The garage level will remain the same. Mr Collins stated that the entire foundation will remain.

When the work will begin, a revised work protocol will be provided. The staging area, storage of materials and access way will have to be addressed. The Commission may require that the staging area be in the existing driveway.

There appears to be very little room for mitigation except for an existing path to the marsh. Mr Riley stated that this is the access way to bring the re-nourishment materials to the revetted area, prior to the current owner.

From the audience, Seth Wilkinson addressed alternative approaches for beach nourishment. It was noted also that temporary surface irrigation will be used.

The proposal had been approved by the ZBA on September 11, 2008; **it was moved, seconded and voted to close the hearing.**

**80 Bridge Street, Stage Harbor Marine, Andrew Meincke, SE 10-2401:** The hearing was re-opened for an NOI for the proposed marina improvements at 80 Bridge Street. Michael Ford, Esquire and Roy Okurowski of Coastal Engineering Company Inc represented the applicant. Commissioner Johnson was not eligible to vote on the proposal. The Chair clarified points of the presentation and questioned whether the applicant had made clear that there would be excavation of the coastal bank, currently covered with asphalt. A large part of the coastal bank will be excavated to make room for the new proposed floats. The top of the coastal bank is the top of the revetment.

Mr Okurowski stated that they had covered the proposal extensively during previous hearings, stating that the asphalt and rock revetment would be removed and that a bulkhead would be built in place. The sheeting will be driven first right through the parking lot, then the asphalt driveway will be removed. The area was painted in the field 17-ft off the building prior to the ZBA hearing, but not for the Commissioners.

After checking with DEP, Mr Okurowski stated that above MHW, work is not considered dredging, it is excavation and breakouts in the plans differentiate between dredging and excavation. Excavation down to the licensed dredge depth will be completed then the licensing will be completed at a later date.

The proposal was approved by ZBA on Sept 11, 2008; **the Commission voted to close the hearing since there was a majority of the Commission available to close the hearing. It was thought that Commissioner Billie Bates could listen to the tapes of the hearing and be eligible to vote on the hearing. Attorney Ford would write a letter waiving the required 21 day time frame the Commission has to write an Order once a hearing is closed.**

**160 Wapoos Trail, The R C Cantu Trust No 1-owner, Robert Cantu, Trustee-applicant, SE 10-2453:** The hearing was re-opened for an NOI for the proposed additions, including balconies and associated view pruning at 160 Wapoos Trail. John Lovell of Coastal Engineering Company Inc represented the applicant. Mr Lovell had submitted revised plans dated June 11, 2008 showing additional mitigation plantings on the top of the coastal bank.

The proposal had been approved by the ZBA on Sept 11, 2008; **it was moved, seconded and voted to close the hearing.**

**24 Squanto Drive, Stello Construction-applicant, Kenneth Ritchie Realty Trust-owner, SE 10-2423:** The hearing was re-opened for an NOI after re-advertisement to include the proposal to remove three black locust trees to the proposal to remove existing deck, proposed construction of first floor porch and after –the-fact patio expansion at 24 Squanto Drive. Contractor Rob Stello represented the applicant; Commissioner Johnson was not eligible to vote. The project had obtained approval from the ZBA on Sept 11,

2008. The Commission re-iterated that the mitigation plantings agreed upon under the last Order should be planted prior to the beginning of construction.

**It was moved, seconded and voted to close the hearing since there was a majority of the Commission present to close. Commissioner Bates will listen to the tapes of the meeting.**

**Lot 106 Stage Island Road, DMD Properties, LLC, SE 10-2416:** The hearing was re-opened for an NOI for the proposed construction of a single family dwelling and proposed mitigation planting at Lot 106 Stage Island Road. William Riley, Esquire and David Clark of Clark Engineering LLC represented the applicant; Commissioner Johnson abstained from the hearing.

Mr Riley re-iterated his comments from the previous hearings regarding the financial and aesthetic rationale for proposing such a large dwelling on this lot. The Chair responded with a list of seven properties in close proximity to Lot 106 whose footprints were under 1500 sq ft. Mr Riley noted that the revised plans show that the applicant has reduced the proposed footprint to 1350 sq ft and has moved the deck to the northeast side.

The resource areas affecting this lot include Flood plain and salt marsh under the State and Coastal bank under the town regulations. The coastal bank is not shown on the plan and the Chair re-iterated that it would be necessary to find the first observable break and stake it in the field so the Commissioners would have an understanding of its location. It was generally thought that the top of bank was located up near the street.

The proposal has not received approval from the Board of Health and will be reviewed by same on Nov 3, 2008. The Conservation hearing was continued to November 5, 2008.

**173 Cross St, Minglewood Homes, SE 10-2345:** A Certificate of Compliance was signed for the completion of work at 173 Cross Street.

**325 Fox Hill Road, Eastward Ho!, SE 10-2149:** An Extension Request was signed for Eastward Ho Country Club.

**576 Fox Hill Rd:** The Commission approved the removal of a dead tree at 576 Fox Hill Road under an Administrative Review.

**32 Sunset Lane, Thompson:** The Commission approved the removal of two trees at 32 Sunset Lane under an Administrative Review.

**270 Whidah Rd, Bernert:** The Commission approved the removal of trees at 270 Whidah road under an Administrative Review. The applicant agreed to keep the oak trees and plant as mitigation for the removal of the pines.

**42 Horseshoe Lane:** The Commission approved the removal of oak trees and overgrown viburnum at 42 Horseshoe Lane under an Administrative Review.

**1038 Main Street, Eldredge:** The Commission approved the removal of a dead, large tree at the edge of Perch Pond under an Administrative Review.

**86 Harbor View Rd, Terry:** The Commission approved the removal of several dead trees in close proximity to a coastal bank at 86 Harbor View Rd under an Administrative Review.

**33 Lady Slipper Lane, Smick:** The Commission approved the removal of several pines in close proximity to the house and deck under an Administrative Review.

**21 Buena Vista Drive, Cassidy:** The Commission approved the removal of Rosa rugosa and the planting of native shrubs at 21 Buena Vista Drive under an Administrative Review.

**Adjournment:** It was moved, seconded and voted to adjourn the meeting at 10:30 PM.

Respectfully submitted,  
Mary Fougere, Secretary