

Present: Chairman Jay Putnam, Vice Chair DeeDee Holt, Billie Bates, John Geiger, Bob Lear, Paul Chamberlin, Conservation Agent Kristin Andres and Secretary Mary Fougere.

Absent: Commissioner Carol Scott.

At the request of the applicants, **the following hearings were continued:**

268 Old Harbor Road, John/Kathryn Hamill: Continued to January 6, 2010

325 Fox Hill Road, Eastward Ho! Country Club, SE 10-2534: Continued to December 30, 2009; Special Meeting date will be arranged

20 Shore Road, Richard E Pinckert, Trustee under Indenture of Trust of Richard E Pinckert and Nell N Pinckert, Trustee under Indenture of Trust of Nell N Pinckert, SE 10-2593: Continued to January 6, 2010

581 Riverview Drive, Theodora Casey, SE 10-2576: Continued to January 6, 2010

75 Squanto Drive, Douglas/Cheryl Gorman, SE 10-2592: Continued to January 6, 2010

811 Fox Hill Road, Alec Murray, SE 10-2451: The hearing was re-opened for a Request to Amend an existing permit under SE 10-2451 to include installation of a walkway patio and installation of patio eating area at 811 Fox Hill Road. The Commissioners had been to the site to view the staked area of mitigation plantings to determine if the mitigation provided was adequate for the increased permanent disturbance to the resource area. It appeared that the area was approximately 500 sq ft in size, possibly a little less area than expected.

No one was present to represent the applicant; **it was moved, seconded and voted to close the hearing.**

325 Fox Hill Road, Eastward Ho! Country Club, SE 10-2603: The hearing was opened for a Notice of Intent (NOI) for the proposed demolition of existing maintenance buildings and associated site improvements; proposed installation of new sewage disposal system, storm water drainage system and utility upgrades at 325 Fox Hill Road. Sean Riley of Coastal Engineering Company Inc represented the applicant and returned the abutter notification cards. Michael Ford Esquire, Joyce Williams of Joyce K Williams Landscape Design and several project designers were also present. Mr. Riley had met with the Director of Health & Environment Dr Robert Duncanson and Conservation Agent Kristin Andres prior to submitting the application. Additionally, Mr. Riley had met with several Commissioners on December 15 on site. As a result of that meeting, the proposed lower parking area will be moved back from the resource area by 10-ft; this is not reflected in the plans.

A Storm water report, detailed Project Narrative and Work Protocol were submitted along with the Notice of Intent. Mr. Riley reviewed the specifics of the existing conditions.

The area is impacted by several resource areas:

- An impoundment of water to the west of the existing buildings is surrounded by wetland vegetation; it appears that a new wetland has formed as a result of a bridge project that the club completed in the past creating a wooden bridge crossing over a low area that had been mowed in the past. The area in front of the storage bin area is now converting to a vegetated wetland.
- A coastal bank to the east and its AURA; the coastal bank delineation falls right in front of the existing maintenance building and Landscape materials storage bins

- Two different Flood Zones, elevation 11 and elevation 12 and their AURAs, el 12 is the Conservancy District boundary.

The applicants were commended for the proposed, environmental improvements to the site. Mr. Riley summarized the improvements to the site in a sheet handed out at the table. Site improvements will consist of the following:

- Improved fueling procedures will be possible by the installation of the above ground double wall fuel tanks with secondary containment
- The existing septic system will be replaced and moved outside the AURA to the coastal bank
- A wash water re-cycling system will be installed, currently there is no area to re-cycle wash water
- An indoor mixing station for pesticides will be installed, currently there is no contained area for chemical mixing
- The new landscape materials storage bins will be pitched towards deep sump pump basins
- There will be no buildings within the Conservancy District. The areas nearer the vegetated wetland will be used for parking and storage of materials, a lesser use than currently exists
- Storm water runoff from roofs, parking areas and landscape storage bins will be contained and treated, where no storm water controls are present currently
- There will be an increase of pervious surface area in the 50-100 AURA
- A landscape plan and management schedule will be developed by Seth Wilkinson of Wilkinson Ecological Design and Joyce Williams. Replacement trees will be incorporated in the plans to replace lost canopy during construction

Mr. Riley will supply protocols for the following:

- Wash water re-cycling
- Operation & Maintenance for the drainage systems
- Pesticide Management
- Septic system maintenance
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The proposal is scheduled on the Zoning Board of Appeals (ZBA) agenda for January 28, 2010; **the Conservation hearing was continued to February 3, 2010.**

72 Main Street, Marion Fischer, SE 10- The hearing was opened for an NOI for the proposed extension of existing timber stairs at 72 Main Street. David Clark of Clark Engineering LLC represented the applicant and returned the abutter notification cards. The proposed staircase extension will allow the applicants to access the newly forming beach area in front of their house. Over time, sand has accreted in this area creating beach areas where none have existed since the 1987 break in North Beach.

The section of stairs below the Flood Plain contour to the beach will be removable. Support posts will be installed above the revetment and below, there will probably be a need for additional supports in the rock portion of the revetment to satisfy the building code.

Commissioner Bates stated that there will be a need to establish plant material at the end of the

steps on the beach to avoid additional erosion. This type of erosion is visible around the set of stairs to the north of this property.

The hearing was continued to January 20, 2010 for the following:

- **Project narrative**
- **Notification to Natural Heritage & Endangered Species**
- **Receipt of a file number from DEP**

Lot 6 Kendrick Harvest Way, Eastward Homes Business Trust-William Marsh, SE 10-2602:

The hearing was re-opened for an NOI for the proposed construction of new, single family dwelling at Lot 6 Kendrick Harvest Way. No one was present to represent the applicant. A file number had been received from DEP; **it was moved, seconded and voted to close the hearing.**

82 Main Street, Ellen McKinley, SE 10-2591: The hearing was re-opened for an NOI for the proposed installation of elevated, wooden stairs over a revetment for beach access at 82 Main Street. Roy Okurowski of Coastal Engineering Company Inc represented the applicant. The proposal had been approved by the Zoning Board of Appeals (ZBA) on Nov 12, 2009. **It was moved, seconded and voted to close the hearing.**

110 Old Salt Works Road, Goodrich Chatham Realty Trust, Joseph Marzilli, Trustee, SE 10-2582: The hearing was re-opened for an NOI for the proposed upgrade to existing septic system, removal of old septic components and restoration of disturbed areas at 110 Old Salt Works Rd. The Commission was in receipt of the document from Woods Hole Group entitled "*Answers to Questions*". *No one was present to represent the applicant; the hearing was continued to January 20, 2010.*

797 Old Queen Anne Road, Kirk/Laurie Davis, SE 10-2588: The hearing was re-opened for an NOI for the proposed replacement of timber stairway on Inland Bank and proposed landscaping at 797 Old Queen Anne Rd. David Lyttle of Ryder & Wilcox Inc represented the applicant. He stated that the proposal had been approved by the ZBA on Dec 3, 2009.

Mr. Lyttle submitted a revised site plan dated December 10, 2009 and a landscape plan by Crossroads Landscaping (undated) with a revised plant list. Approximately 1523 sq ft of mitigation is required under the regulations for the increased permanent disturbance in the AURA to the Inland Bank to Schoolhouse Pond. The applicant has provided 2300 sq ft of mitigation.

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

29 Manamock Road, Manamock Realty Trust-owner, Richard/Stefi Chilton-applicants, SE 10-2599: The hearing was re-opened for an NOI for the proposed construction of addition to existing single family home at 29 Manamock Road. David Lyttle of Ryder & Wilcox, Inc represented the applicant.

The landscape mitigation plan had already been provided. The wetland on this site is across a paved roadway and there is a large, established rhododendron buffer that will remain. A plant list for additional mitigation was provided.

The application must be reviewed by the ZBA; **the Conservation hearing was continued to January 20, 2010.**

227 Woodland Way, William Marsh-applicant, Walden Woods Nominee Trust-owner, SE 10-2604: The hearing was opened for an NOI for the proposed construction of new, single-family dwelling with granite steps to Ryder's Cove at 227 Woodland Way. Susan Ladue and William Marsh of Eastward Companies were present: Ms LaDue returned the abutter notification cards. She referred to the Clark Engineering site plan submitted with the application. The lot is currently well wooded and is 46, 000 sq ft in size. The site was staked for viewing by the applicant.

The lot is impacted by the coastal bank to Ryder's Cove and its AURA. The proposed granite steps begin in the N0- Disturb Zone (NDZ) to the coastal bank and are in the flood plain as well as on the coastal bank. A proposed footpath in the NDZ would lead from the house to the granite steps. Photographs of the proposed steps were included in the application. The applicant noted that the steps would be set on a gravel base which would help with storm water drainage. Commissioner Chamberlin felt that this design would eliminate a sluice way being created for storm waters.

In answer to the Commission's question regarding using the proposed pathway and granite steps as a shared stairway between abutters, Mr. Marsh stated that when he had considered that prospect several years ago. Subsequent to that, he sold the adjacent lot to owners who were not in favor of sharing a stairway to the water.

A large portion of the new dwelling is proposed in the 50-100-ft AURA to the coastal bank. The Commission asked if the house could be moved landward to get more of the structure outside the area of jurisdiction. The applicant was reluctant to move the dwelling because the views are diminished. The houses on either side of this lot are closer to the top of the bank, however they were built before regulation changes creating the NDZ were in effect. Currently proposed, 1986 sq ft of dwelling and 744 sq ft of hard-scape are proposed in the 7900 sq ft area comprising the outer AURA, covering 36% of the land area. Approximately 8-9 large trees will be removed for the dwelling. The Commission questioned whether the large amount of re-contouring on both the eastern and western property bounds would require additional tree removal.

The majority of the contour changes occur in the areas outside the jurisdiction of the Commission, although there is re-contouring on the eastern side that goes almost to the NDZ. The re-contouring is for a drainage swale to eliminate run-off onto the neighbor's property. The limit of work has been set at the NDZ.

Two retaining walls are proposed on the eastern side of the dwelling; one follows the limit of the Commission's jurisdiction and will be approximately 8-ft tall. It was questioned whether ZBA approval would be necessary for the wall.

A landscape plan had been provided, dated November 30, 2009. Ms Ladue reviewed the plant list and the details of the proposal.

The proposal for the granite stairs must be reviewed by the ZBA; the hearing was continued to January 20, 2010 for receipt of the following:

- **Revised landscape plan reflecting changes should the house be re-located on the lot**

- **Information regarding moving the house back from the resource area and a count of the trees that would be removed on the whole lot**
- **Revised stairway design to avoid trees on the bank**

236 Stage Neck Road, Edward/Joyce Hough, SE 10-2601: The hearing was re-opened for an NOI for the proposed construction of seasonal pier & float at 236 Stage Neck Road. William Riley, Esquire, David Clark of Clark Engineering LLC and Jack Vaccaro of Vaccaro Environmental Services represented the applicant. Since the last hearing, the applicant has submitted an eelgrass survey. Commissioner Chamberlin stated that information they have had in the past indicated that the accuracy of eelgrass surveys is best when completed in the growing season. The Vaccaro survey was completed in early winter (December). There is die-back of the eelgrass on a seasonal basis but Mr. Vaccaro maintained that the water was clear, water temperature was 40 degrees and they could still see the rhizomes to obtain accurate data within 50-ft of the proposed pier. He noted that the DEP mapping was completed in this area in 1995(not in 2001) by aerial photography. His report was based on actual observations by a diver. Mr. Vaccaro reviewed the methodology used for data collection.

Although codium was found in the entire survey area, eelgrass was observed only in the area about 50-ft from the proposed dock centerline. The substrate in the entire area would support eelgrass growth. Very little shellfish were encountered, although the Conservation Agent noted that scallop season has been on-going since November 1, and oysters have been taken since September 1. This area was actively shellfished (dragged) this season; the data supplied was based on observations only, there was no shellfish survey submitted.

Commissioner Bates questioned whether the Commission should hire a consultant. Ms Andres noted that there is a considerable amount of information available regarding various aspects of eelgrass and its growth, particularly the timing of eelgrass surveys. She has contacted Charlie Costello from DEP who provided articles and documentation that re-enforced the need for eelgrass surveys to be conducted in the growing season. Because the Vaccaro survey was not completed during the growing season, the applicant is asking the Commission to accept information that is less than standard. Commissioner Chamberlin noted that the articles confirm that the amount of biomass is lowest in December, January and February.

Documents submitted into the record at this time are as follows:

- *"Defining Seagrass Habitat"* from Guidelines for the Conservation and restoration of Seagrasses by Fonseca,
- Waquoit Bay article detailing biomass, and the re-seeding of eelgrass
- *"Restoring Coastal Habitats for Rhode Island's Future"* from RI Seagrass Habitats
- Emails from Charles Costello to Ms Andres, from December 10 thru December 15, 2009
- Memo from Dr Robert Duncanson, Director of Health and Environment, regarding the restoration of estuarine environments by implementation of the Chatham Wastewater Management Plan, dated December 16, 2009
- *"Small Docks and Piers"* A guide to Permitting Small Pile-supported Docks and Piers, from DEP

Mr. Riley stated that piers, when properly constructed, do not interfere with habitat, He noted that the proposed pier will be shared by two properties and will replace existing out-hauls and storage of personal watercraft on beach areas. Further, Mr. Riley states that there will be a decrease in

turbidity; additionally, the pier will be seasonal in nature and will be removed before the harvesting of oysters and scallops. There are no performance standards specifically for eelgrass; Ms Andres noted that eelgrass is a concern of DEP. This concern was documented during a recent appeal for the construction of a dock in the Mill Pond. Commissioner Chamberlin noted that performance standards are not organized around piers or objects; they are organized around preservation of habitat.

Commissioner Geiger questioned whether there could be eelgrass outside the grid that was submitted with the application. There is no eelgrass in the area of the pier, however this pier is going out 120 ft from MHW and the articles seem to support the fact that eelgrass is ephemeral. The substrate that supports eelgrass is present in the whole area. There is historic documentation of eelgrass presence. In reviewing the regulations under the Chatham Bylaw, sections 2.09-shellfish & shellfish habitat, there is a list of criteria that supports water quality for the promotion of shellfish growth. He acknowledged that the Commission has learned a great deal from literature and past documentation of eelgrass and may rely more heavily on historic evidence of eelgrass than it has in past practice. The implementation of the wastewater plan is going forward now and will improve water quality.

The proposal is scheduled to be heard by the Zoning Board of Appeals on December 17, 2009. The Commission was in receipt of a copy of a comment letter to the ZBA from Harbormaster Stuart Smith, dated December 16, 2009 and a copy of a ZBA comment from the South Coastal Harbor Management Committee dated December 15, 2009. .

The hearing was continued to January 20, 2010 for the following:

- **ZBA decision**
- **Clarification of MHW- Mean High water was determined by vegetation, the benchmark places MHW 3/10 ft higher**
- **Determination of MLW- receipt of information on the change in tidal range**

227 Vineyard Avenue, Stephen/Lisa Turnblom, SE 10-2580: The hearing was re-opened for an NOI for the proposed construction of living space addition and porch over existing deck and a second addition on upland side of dwelling at 227 Vineyard Avenue. David Clark represented the applicant; there has been no zoning application to date, **the Conservation hearing was continued to January 20, 2010.**

37 Chatharbor Lane, Mary Jane/ Frans Cramer, SE 10-2548: **The hearing was re-opened for an NOI for the** proposed demolition of existing dwelling; proposed construction of new dwelling at 37 Chatharbor Lane. David Clark of Clark Engineering represented the applicant; the proposal will be heard by the ZBA on January 28, 2009; **the Conservation hearing was continued to February 3, 2009.**

The Zoning Board of Appeals had requested comment on the following projects, both scheduled for December 17, 2009:

594 Shore Road, Chane, SE 10-2596:
236 Stage Neck Rd, Hough, SE 10-:

Commissioner Chamberlin prepared draft comment letters that were reviewed by the Commission. After some discussion, the Commission approved the ZBA comment letters.

Approval of Minutes: The minutes of December 2, 2009 were approved as written.

Certificates of Compliance were signed for: 23 Oyster Pond Lane, SE 10- 2256 & 314 Bay view Rd, Sweeney SE 10-

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

26 Pond Street, CH Newton: Construction of Entryway

34 Holway St, The Tree Wizard: Removal of large willow with trunk rot

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

Respectfully submitted,
Mary Fougere, Secretary