

Present: Chairman Paul Chamberlin, Vice Chairman Jay Putnam, John Geiger, Carol Scott, Corinne Johnson, Barbara Waters (Skelley), Billie Bates, Associate Member and Keith Hutchings, Conservation Agent Kristin Andres and Secretary Mary Fougere.

Absent: Associate Members DeeDee Holt and Peter Donovan.

The following Applications were continued:

- * **82 Jericho Lane, Oyster River Boatyard, CWP08-253N**-At the applicant's request, the hearing was continued indefinitely
- * **Pcl R5 Uncle Albert's Drive, Byrne-Ford Associates, II, Simone Byrne & Preston Ford, SE 10-**
10- At the applicant's request, the hearing was continued to January 7, 2009

20(Lot 4) Kendrick Harvest Way, Eastward Homes Business Trust, SE 10- 2494: The hearing was opened for a request to amend the existing Order under SE 10-2494 to include removal of invasive vines and other vegetation and proposed pruning of dead limbs from existing trees at 20 Kendrick Harvest Way. William Marsh of Eastward Companies was present and returned the abutter notification cards. He circulated photographs dated December 17, 2008 showing existing site conditions. He stated that the removal of the invasive vines would increase the view over the bog and preserve the existing deciduous and coniferous growth. There will be no equipment in the resource areas, the work can be done from the access road.

The Commission expressed that all the vines etc are not invasive, there is no honeysuckle to speak of. Should the applicant be allowed to clear the vegetation, the removal of understory growth would create a park-like vista. There is need for additional plantings in the No-Disturb Zone after any invasives are removed to replace plant mass. Mr. Marsh stated he would hire a botanist to develop a landscape plan.

Commissioner Bates suggested that the applicant wait until the house is built before work is completed for view enhancement. The Commission agreed that the NDZ must be preserved and that view windows should be considered by the applicant rather than expansive clearing of the AURA to the bog.

The hearing was continued to February 4, 2009.

83 Holway Street, John Cullinane, SE 10-2231: The hearing was opened for a request to amend existing Order under SE 10-2231 to include the addition of rocks to the existing revetment at 83 Holway Street.

81 Holway Street, John Whelan, SE 10-2230: The hearing was opened for a request to amend existing Order under SE 10-2230 to include the addition of rocks to the existing revetment at 81 Holway Street.

Roy Okurowski of Coastal Engineering Company Inc represented the applicants and returned the abutter notification cards. He stated that since the concrete mats were installed almost a year and a half ago, the current in the channel has gone from 7 knots to 3-4 knots and he feels that there is no more slumping occurring of the revetment.

Anchor Marine will be completing the work using a rubber tire machine. Mr. Barsamian at 75 Holway St is not participating in this project; access for the work will be over private property. This proposed work will add approximately 50-ton of rock to each property to fill in existing holes over the filter fabric on the rocky face; the work is mostly cosmetic in nature and all work is above MLW.

It was moved, seconded and voted to close the hearing and approve the amendments as proposed at 81 and 83 Holway Street. The Commissioners signed the amendment permit.

94 (Lot 7A) Uncle Albert's Drive, John Schumacher, SE 10-2396: The hearing was opened for a request to amend existing Order under SE 10-2396 to include revisions to the footprint of the proposed dwelling and proposed addition of on-going maintenance mowing to meadow areas and pathway to Oyster Pond at 94 Uncle Albert's Drive. David Clark of Clark Engineering LLC represented the applicant and returned the abutter notification cards.

The original plan has been revised to reflect the proposal:

- * Increased sq footage of the proposed foot print of the dwelling and a reduction in the size and location of the new driveway. There is a net decrease in site coverage in outer AURA by 450 sq ft as a result of these changes. The house has been moved back slightly about 10-ft towards the northeast and increased in size by 430 sq ft
- * The inclusion of a portion of the Adamo footpath on this lot
- * Proposed mowing of the portion of the field on this lot as was approved on the Roussel lot next door

The plan shows a comparison of the original house vs. the approved proposal. The Commission questioned how much of increased square footage of the dwelling is within the jurisdiction. There is more house in the outer AURA, no part of the dwelling is closer to the wetland. Mr. Clark agreed to provide plans for the file showing comparisons of activities already approved vs. activities proposed as an amendment.

The lawn area around the pool was already approved. By moving the house and pool activities 10-ft back on the lot, the buffer to the pond (not to the BVW) will be increased. Currently there is only Cape Cod lawn beyond the pool but inside the limit of work. The pool water will be drained down and trucked off-site, for maintenance work. The Commission agreed that a landscape plan will be necessary since the one on file will be changed.

Discussion ensued regarding the location of the pathway. It started off on the Adamo property but over time and because of negotiations with the Adamo neighbor, the proposed path has been moved onto the Schumacher property. It will tie into the Adamo path at the Flood Plain so there is no need for Zoning relief.

The meadow area was last mowed in 2007, prior to that time, it was probably mowed in 2005. The proposed mowing to re-establish meadow gets very close to the stream for about 30 ft. There will be mowing of porcelain berry and will avoid native plant species, specifically the sprouting pines, cedars and bayberry. The mowing ends just short of the path and could be shortened.

From the audience, abutter John Richards questioned why the location of the building was moved, as well as the septic system. He also questioned whether the BOH had considered the poor soils in the area when permitting a 5-bedroom house. He argued that there is a lot of development in the resource areas and the wetlands will be degraded. In response, Mr. Clark stated that the house was moved back on the lot, to make it larger. This will result in a softened slope on the southeast side, with a bit more area to grade, lessening erosion.

The hearing was continued to December 22, 2008 for receipt of overlays showing the comparison .

368 Seapine Road, Beth Kressley-Goldstein, SE 10-2469: The hearing was opened for a request to amend existing Order under SE 10-2469 to include the proposed removal and

replacement of the existing dwelling, including the foundation at 368 Seapine Road. John Schnaible of Coastal engineering and Architect Michael Collins represented the applicant. The abutter notification cards were returned. The original Order was issued in October 2008. Mr. Schnaible stated that due to unforeseen problems, there will be a need for a whole, new foundation, which was not originally proposed. There will be no change to the size of the dwelling, the footprint, the size of the septic system or the landscape plan.

Mr. Schnaible stated that the existing foundation was discovered to be sub-standard in many areas. It did not meet the building code when it was constructed and will not meet it now, therefore a new foundation is necessary in order for the project to go forward. Mr. Collins reviewed the work protocol submitted by Coastal Engineering and noted that there will be additional excavation on the south and west foundation to obtain adequate depth. Excavated materials will be stockpiled on site but if necessary, will be trucked off site to keep them out of the Flood Plain.

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

11 Crest Circle, Mark/Jane Sherman, SE 10-2515: The hearing was opened for a Notice of Intent (NOI) for the proposed construction of screened porch and an outdoor stairway at 11 Crest Circle. David Lyttle of Ryder & Wilcox Inc represented the applicant and returned the abutter notification cards. He read the Variance Request into the record.

The applicant inherited a lot of problems on this lot, the previous owner had cut vegetation below the top of the bank and encroached on the wetland resources without benefit of valid wetlands permits. There is run-off damage to the east of the house and an additional pathway over a very steep slope in the No-Disturb Zone (NDZ) that appears to be unnecessary. Mr. Lyttle agreed to remove the pathway from the request although there is no intent to build anything in that area.

Mr. Lyttle felt that the proposal for a screened porch is relatively modest in nature, however the existing site conditions will require quite a lot of mitigation that the applicant was reluctant to agree to. The Commission agreed that there is additional planting necessary south of the 10-ft contour, more than what is proposed to control erosion and create a buffer.

There is a Special Permit in place from the ZBA; **it was moved, seconded and voted to close the hearing.**

Lot 106 Stage Island Road, DMD Properties, SE 10: The hearing was opened for an NOI for the proposed construction of a seasonal pier & walkway at Lot 106 Stage Island Road. David Clark of Clark Engineering LLC and William Riley, Esquire represented the applicant. Mr. Clark returned the abutter notification cards. The previous application for this work was withdrawn due to lack of a voting quorum. This new application has been revised to show the following:

- * The pier is in full compliance with the zoning bylaw, per Mr Riley
- * The depth of water has been met at the end of the float; the float is off-set because the water is deeper
- * There are stops on the float

Mr. Clark stated that he realized there were errors on the plan in front of the Commissioners; the plan does not accurately reflect the soundings that were recently completed after the old pier was removed and the profile on the plan shows the pier and float as 90-ft long,

when the proposal is for an 80 ft pier, ramp and float. On the northeast corner of the float there is 3-ft of water, but the depth does not change on the inboard end of the float from the original plan.

MR Riley stated that the pier will serve a single family; there are no deeded rights to the pier for other properties on the island. According to Mr Riley's statement, the dock will be removed seasonally and will be out of the water seven months of the year.

Commissioner Johnson noted that the pier proposal is marginal, at best, especially at the end. The Commission questioned why the applicant is proposing a pier and not simply a mooring. The prop scouring concerns pertaining to the shellfish beds and limiting of harvesting of shellfish are addressed in several of the comment letters as noted below:

- * Letter dated December 15, 2008, from the Shellfish Advisory Committee
- * Letter dated December 16, 2008 from the South Coastal Harbor Plan Committee
- * Letter dated December 8, 2008 from Stuart Moore, Shellfish Constable
- * Letter dated December 15, 2008 from the Division of Marine Fisheries

Mr. Riley felt that although there are valid prop scour concerns, the protection of shellfish habitat does not require 100% access 100% of the time. The applicant is willing to restrict the size of the boat that can pull up to the pier. This pier is only 400 sq ft and will take up a small part of Stage Harbor where the shellfish resource could be shared for a few months a year.

There was no eelgrass or shellfish survey submitted; the Commission would like to see the location of the moorings that were installed in the footprint of the old launch way.

Will require a Special Permit ; the proposal is on the ZBA agenda in February 2009. **The Conservation hearing was continued to January 21, 2009.**

Strong Island, Jay Cashman-applicant, Chatham Conservation Foundation Inc-owner, SE 10-:

The hearing was opened for an NOI for the proposed house renovations including reconstruction of existing dwelling, addition of second story and deck; proposed cleanup of waste area; proposed improvement of existing access across beach; proposed meadow restoration at east end of island and proposed trail maintenance activities at Strong Island. Robert Cummings of EMS Services and William Riley, Esquire represented the applicant.

The Chair noted that normal process for the Commission involves the receipt of a plan showing the applicant's proposal, the site visit conducted by Commissioners and then the public hearing. In this case, the plan is inadequate in showing the resource areas and the jurisdictional areas of the Commission, there has been no site visit to view staked areas of proposed work therefore it is difficult to conduct a hearing.

Mr. Riley mis-understood that the portion of the work on the east end of the island would not be discussed. However, Mr. Cummings understood that they had not provided enough information.

Discussion ensued regarding the proposed trail/ path maintenance. The intent of the applicant is to obtain a permit to manage the poison ivy by mowing the shoulders of the paths annually. The work would be conducted in specific zones agreed upon by the applicants and the Conservation Foundation before commencement of work. The Foundation is reluctant to agree to a blanket permit for mowing. The mowing would be within the AURA to coastal bank. The Chair noted that within NDZ, 4-ft pathways are allowed.

It was noted that there is no intention to install an amphicar ramp at the end of the pathway, as previously discussed a couple years ago. The tide is much higher now and there is really no area at the end of the path to install a ramp.

The DEP has not issued a file number; **the hearing was continued to January 7, 2009 for a work protocol, revised plans and to arrange a site visit to view the staked areas of proposed work.**

486 Shore Road, 498 Shore Road & 500 Shore Road, James/Lisa McGonigle-applicant, Drs Aucoin Family Nominee Trust, James/Lisa McGonigle and Linda A Geary QPR Trust-owners, SE 10-2503: The hearing was re-opened for an NOI after re-advertising for proposed installation of sand drift fencing and proposed re-nourishment of eroded areas at 486, 498 & 500 Shore Road. Some of the Commissioners had revisited the MacDonald property at the end of Sears Road prior to the hearing. Roy Okurowski of Coastal Engineering Company Inc represented the applicant. He stated that he had recently spoken to Jim Malhalla and Dave Hill at DEP regarding the possibility of installing this sand drift fencing at this location and whether it was permissible under the Act. According to Mr. Okurowski, the "Z" configuration of the fencing could qualify it as a structure on the beach, but because it is above MHW and outside Chapter 91 jurisdiction, it would be permissible as a fence to trap sand. However, should the Commission decide that the installation of the sand drift fencing was something they would not permit, the applicant will nourish the existing fiber rolls, He fully expects that the sand will be washed away immediately in this location due to the higher tides.

The Commission acknowledged that the storm in April 2007 was an unusual event and exposed the original fiber rolls. The applicant had never re-nourished in 2007 or 2008, without nourishment the fiber rolls will last approximately 6-7 years. When comparing this property to the MacDonald property, the sand drift fence was allowed for dinghy storage, since that was the major problem requiring fencing. This property was allowed a fiber roll installation as erosion protection to protect the bank fronting a post-1978 dwelling. At the time, re-nourishment was required in the Order.

Several applicants have been permitted erosion control and have maintained as required for maximum erosion control. MR Okurowski stated that there will be a major detriment to abutting properties, Mrs. Geary will lose more sand without nourishment on the McGonigle property. The Commission agreed that the requirement for nourishment is really mitigation for cutting off the sediment source to other areas.

Mr. Okurowski stated that the applicant will probably withdraw the request for the sand drift fence. *The proposal was continued at ZBA to January 22, 2009; the Conservation hearing was continued to January 14, 2009.*

112 Stage Island Road, Dianne/Paul Doherty, Jr, SE 10-2509: The hearing was re-opened for an NOI for the proposed installation of swimming pool and landscaping at 112 Stage Island Road. Landscape Designer Phil Cheney represented the applicant; he had provided revised plans dated December 4, 2008 to the Commissioners prior to the hearing.

The revised plans show the following:

- * A reduction in the size of the pool and pool deck by 20% (in the NDZ to the coastal bank)

The Commission was expecting to see additional mitigation for the construction of the pool. The 275 sq ft of mitigation may be serving two fillings since the reduction in pool size does not seem enough. There is an existing sub-surface irrigation system in the NDZ, which was

installed without a valid wetlands permit. The area that is mowed on the coastal bank was suggested as an area that would benefit from additional plantings; the applicant should cease mowing in this area as well.

The hearing was continued to January 21, 2009 for the following:

- * The calculations for increased disturbance in the NDZ; the fenced area inside the fence should be calculated
- * Consideration for the re-location of the pool, consideration of elimination of the patio & the elimination of some hardscape. Mr. Cheney stated that he had suggested that the pool area be moved to the patio area, thereby eliminating the patio and the client rejected
- * Substantial mitigation on the west side should be shown on the plan, the size and density of plant material should be adequate to restore habitat

39 Wapoos Trail, James/Martha Higgins SE 10-2506: The hearing was re-opened for an NOI for the proposed removal of existing dwelling & septic system ; proposed construction of new dwelling, detached garage and shed; proposed installation of pool; proposed installation of new septic system; proposed relocation of existing driveway; and proposed grading and landscaping at 39 Wapoos Trail. David Lyttle of Ryder & Wilcox represented the applicant. He stated that the proposal was approved by ZBA on Dec 4, 2008 with condition that the dwelling size be reduced by 251 sq ft.

Mr. Lyttle acknowledged that the tree species shown on the landscape plan were not acceptable and the applicant would revise the landscape plan to reflect the change.

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

Lot 106 Stage Island Road, DMD Properties, LLC. SE 10-2513: The hearing was re-opened for an NOI for the proposed construction of single family dwelling and proposed mitigation planting at Lot 106 Stage Island Road. David Clark of Clark Engineering LLC and William Riley, Esquire represented the applicant. An on-site meeting was held on December 16, 2008. The plans have been revised to reflect suggestions discussed at the last meeting.

The purpose of the on-site was to view the coastal bank and decide whether the Commission was satisfied with the location of the bank. The determination will affect the location of the septic system as well as Conservation issues. The regulations describe a coastal bank as the first observable break above the Flood Plain, the Commission viewed two staked locations. Commissioner Geiger agreed with the delineation for the most part; he noted that on the western side, where the least amount of work is proposed, the top of bank seems to wander a bit. Commissioner Bates disagreed with the location of the Coastal Bank based on geologic appearances; she felt that since the driveway and the dwelling are proposed on the coastal bank, she could not agree with the proposal.

The Variance Request was supplied at the last meeting.

Mitigation will be addressed in a landscape plan; it will be necessary to restore most of the site to its original state. The plan shows three areas of re-planting, there will be very little landscape area except in the front of the house and where the septic system is proposed. Entry to the dwelling will be described in the landscape plan , using pathways etc.

The existing boathouse is in the Flood Zone; there will be re-grading for parking and the driveway. Commissioner Johnson questioned whether there was intent to fill the flood plain and raise the area. Essentially all the work is in NDZ to the coastal bank; the applicant will

need zoning relief for the driveway location. The Commission will need calculations showing total coverage, including dwelling driveway, hardscape and mitigation. The Chair would like to see areas of mitigation outside the intertidal area since that area will convert to marsh on its own. Mr. Clark noted that there are site coverage calculations on the plan, however some of them will change once the landscape plan is completed by Greg Lombardi Design. The site coverage is 4300 Sq ft plus there will be 2592 sq ft for restoration. The Commission stressed that there needs to be as little landscaped area as possible, most of the site needs to be restored and returned to the wild.

The hearing was continued to February 18, 2009. The Commission will be asked to supply a comment letter to the BOH.

14 Periwinkle Lane, Stello Construction-applicant, William/Denise McDonough-owners, SE 10-2511: The hearing was re-opened for an NOI for the proposed trimming and topping of vegetation to re-establish view at 14 Periwinkle Lane. David Clark of Clark Engineering LLC represented the applicant; he had provided revised plans and photographs showing the existing site conditions. The Commission had asked that the applicant better define the request.

There is no pruning necessary on the south side. The areas seen when sitting from the deck were shown in photographs 2 & 3 and views of the river from the patio were shown in photographs 4 & 5, Photograph #2 shows a large, bare area; Mr. Clark stated that the applicant will probably put down a grass seed mixture for erosion control.

The Commission was surprised at the proposal to cut trees; Mr. Clark stated that many of the trees had been topped before and many of the trees were multi-stemmed. The Commission agreed that an on-site would be necessary to view the extent of the proposal since the steepness of the bank requires a large amount of canopy be left.

The Commission noted that since there is a huge deck attached to the dwelling, it appears that most of the living is done on the deck level. There is a substantial amount of proposed cutting for view from the patio which seems extreme since it was felt that most of the activity is probably from the deck. The fall views shown in the photos are already well defined.

The mitigation for the construction of the deck is shown on the plan; although the area is staked the mitigation plantings have not been completed. The work is proposed to be completed in March 2009.

The hearing was continued to January 21, 2009; an on-site will be arranged.

65 Eliphamets Lane, Davis, 10-17: A Certificate of Compliance was signed.

Adjournment: It was moved, seconded and voted to adjourn the meeting at 10:25 PM.

Respectfully submitted,
Mary Fougere, Secretary