

Present: Chairman Jay Putnam, DeeDee Holt, John Geiger, Paul Chamberlin, Billie Bates, Carol Scott, Conservation Agent Kristin Andres and Secretary Mary Fougere.

No one was absent.

**325 Fox Hill Road, Eastward Ho! Country Club, SE 10-2564**: At the applicant's request, the hearing was continued to August 19, 2009.

**325 Fox Hill Road, Eastward Ho! Country Club, SE 10-2534**: At the Applicant's request, the hearing was continued to a Special Meeting to be held September 1, 2009.

**175 Balfour Lane, Norman Stein, SE 10-2468**: At the applicant's request, the hearing was continued to November 4, 2009

**597 Orleans Road, William Howe**: The hearing was opened for a Request for Determination of Applicability (RDA) for the proposed installation of fencing panels to match existing sections at 597 Orleans Road. Applicant Chris Howe returned the abutter notification cards and addressed the Commission. The property is located on busy Rt 28 across the street from the entrance to Cove Hill Rd. The fence sections will be in the Flood Plain.

The purpose of the fencing will be to provide better visibility for the applicants to pull out onto Rt 28 and abate some of the noise from the State Highway. Vegetation will be cut back about 9-feet, not removed, to allow the installer to get the fence sections into place. The fence will follow the existing grade and a couple of inches will be left open at the bottom for wildlife passage. There is no fill proposed.

**It was moved, seconded and voted for a Negative Determination.**

**16 Black Duck Landing, Vincent/JoAnn Silvestri, T/E, SE 10-**: The hearing was opened for a Notice of Intent for the proposed construction of a 14-ft x 12-ft sunroom; proposed expansion of existing deck at 16 Black Duck Landing. John O'Reilly of J M O'Reilly & Associates represented the applicant and returned the abutter notification cards. He stated that the plan shows the flagged points delineating the edge of wetland (BVW adjacent to a stream on the west side of the property). Although Mr O'Reilly stated that the stream created by drainage from Cedar Street on the west side of the property does not show as a blue line on the USGS map, his field crew had been to the sight several times and were unable to verify that the ditch was dry for four consecutive days. Therefore he made the assumption that the ditch met the definition of a river and showed the 200-ft Riparian Zone on the plan.

The sunroom will be contained in the footprint of the old deck on a full foundation. The area under the sunroom will be a walkout basement; the new deck will be supported on sono tubes with peastone underneath. The deck extension is within existing lawn area. The limit of work will be marked by a siltation fence. The sunroom's new foundation will sequester area in the No-Disturb Zone (NDZ) that is currently open area under the existing deck. Commissioner Chamberlin suggested closing off one path to the shed as mitigation; Mr O'Reilly would check with the client to address mitigation that is necessary. Mr Chamberlin also asked for calculations of disturbance in the Riparian Zone.

Ms Andres stated that under the local bylaw, an Alternatives Analysis is required.

Access for the proposal will be on the east side of the house and a small set of stairs will be constructed after the excavation. The foundation will be poured via a pump truck cement carrier.

The hearing was continued to August 19, 2009 for the following with the understanding that the revised plans be available on August 12, 2009:

- ◆ An Alternatives Analysis

- ◆ A file number from DEP
- ◆ Calculations of Disturbance in the Riverfront area
- ◆ Mitigation for the increased disturbance in the NDZ

**Pcls C1 & Pcl 3 Pond Street, Town of Chatham/ Sunset Terrace Association-owners, Town of Chatham Park & Recreation Dept-applicant, SE 10-2563:** The hearing was opened for an NOI for the proposed removal of invasive plants at Pcls C1 & Pcl 3 Pond Street. Seth Wilkinson of Wilkinson Ecological Design represented the applicants and returned the abutter notification cards. He stated that the goal of the plan being presented is to remove invasive plants from a portion of the coastal bank adjacent to the Oyster Pond. The Japanese knotweed is the most well developed colony on the site; management of one Autumn olive is included in the plan. Thirteen hundred fifty sq ft (1350) of land is involved on the Town property; nine hundred sixty (960) sq ft of land is on the Sunset Association land.

A contract for the work has been signed by the applicants and Mr Wilkinson. The proposal is a three-year management plan, consisting of the chemical removal of the knotweed and the Autumn olive initially beginning in the fall of 2009. Mr Wilkinson felt that once the knotweed is eradicated, the native grasses will grow and there may not be a need for re-planting. The Commission may review the need for re-planting at a later date once the knotweed is under control.

From the audience, Cam and Marty Koblisch noted that currently, there are two paths through the marsh for dock access; one for the members of the Sunset Association and one for non-members of the Association for beach access. The knotweed now blocks off one of the pathways, once it is eradicated, the Association members will be better able to use it, there is no intent to maintain additional pathways.

From the audience, Emily Cunningham questioned whether there was a plan for Poinson Ivy control once the knotweed and olive are removed. MR Wilkinson stated that generally, it is easier to keep invasive ivy out by hand pulling as the herbicide treatment becomes effective.

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

**375 Bridge Street, Wright/Alicia Olney, SE 10- 2562:** The hearing was opened for an NOI for the proposed removal of invasive and non-invasive trees, shrubs and groundcovers and proposed replacement plantings using Native species at 375 Bridge Street. Craig Schneeberger of Cape Tree LLC represented the applicant and returned the abutter notification cards. He stated that the goal of the plan is to restore a native plant community on a freshwater wetlands bank. The area of proposed work is a triangular portion close to the house of a much larger area of vegetated bank.

The scope of the work will be limited to the outer AURA and will not encroach on the wetlands designated in the plan. NHESP has not recognized the area within or adjacent to the work zone as a priority habitat for rare species, rare wildlife or as an ACEC.

Mr Schneeberger stated that biological diversity and wildlife habitat will be enhanced through the intensive management of the invasive Tree of Heaven, honeysuckle and some bittersweet. He proposes to remove and set aside the existing Forsythia hedge for access to the invasive plants. The trees will be removed and hauled out by hand over the bank; the machinery necessary to grind the stumps will be as close to the top of the bank as possible.

The bittersweet will not be eradicated in this phase but severely trimmed. After all the removal work is complete, the applicant will plant native species plants and possibly some of the Forsythia.

Mr Scneeberger is a Mass Certified Arborist and Director of Land Management and Stewardship for the Chatham Conservation Foundation.

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

**56 (Lot 103) Stage Island Road, Suzanne Wamsler Redetzi-owner, William Hester (Lot 105)-applicant, SE 10-2561:** The hearing was opened for an NOI for the proposed clearing of vegetation within 3-ft right-of-way to allow beach access at 56 Stage Island Road. Joyce Williams of Joyce K Williams Landscape Design represented the applicant and returned the abutter notification cards. Sam Streibert of Streibert Associates represented the owner of the property. Ms Williams stated that this application is in response to a Positive Determination under an RDA. The work as proposed, is to clear woody vegetation and trim additional vegetation to create a 3-ft wide pathway through an existing right of way. This path will provide the applicant with access to the beach in order to get out to his mooring in Stage Harbor. Ms Williams stated that the applicant would maintain a dinghy on the beach; the pathway and dinghy use would be minimal annually, the pathway is for his use and the owner's use only, although the town-owned parcel adjacent to Ms Wamsler-Redetzi is included in the deeded right of way access. Ms Williams circulated photographs of the area taken August 4, 2009.

Discussion ensued regarding the potential for public use of the pathway. Ms Williams felt that it was unlikely that many townspeople would use the new pathway and the beach for dinghy storage because the Stage Harbor causeway is so much more accessible.

Commissioner Chamberlin noted that the depth of water over the adjacent marsh grasses changes with every tide and questioned whether the clearing of vegetation would stop at the woody vegetation, that no marsh grasses would be cut. Mr Hester's dinghy could be stored in the pathway should damage begin to occur on marsh grasses due to foot traffic and the dragging of beach gear, dinghies, etc. The Commission felt that a Review of the marsh area for damage should be undertaken for several seasons.

From the audience, Sam Streibert stated that Ms Wamsler-Redetzi shared the Commission's concern regarding damage to the marsh grasses, but has no problems with the proposal as presented. As a point of information, Mr Streibert noted that there is nothing in the deeded access that would support an elevated structure in the future.

**Scheduled on ZBA agenda for September 10, 2009; the Commission's hearing was continued to September 16, 2009.**

**24 & 30 Bridge Street, Hen Coop Point Real Estate Nominee Trust-owner, Roger Vose-applicant, SE 10-:** The hearing was re-opened for an NOI for the proposed demolition of an existing dwelling and construction of new dwelling and proposed removal of existing garage at 24 & 30 Bridge Street. David Clark of Clark Engineering LLC represented the applicant and returned the abutter notification cards. There are three structures on the site, a primary dwelling, a guesthouse and a detached garage; no work is proposed on the guest house. The new dwelling proposal includes the addition of a garage; this construction would expand the disturbance over what currently exists by 1000 sq ft. The majority of the new house construction has been moved back from the coastal bank and the Flood Plain and a portion of the old, paved driveway will be removed and replaced with an impervious surface drive. There are no drainage structures on the existing dwelling, the pervious surface will aid in storm water control.

The garage is entirely within the Flood Plain and will be eliminated. The Commission reviewed the Alternatives Analysis that was provided with the application. The first alternative would place an addition on the house in its current location. This would be entirely in the NDZ. Mr Chamberlin questioned whether a new addition on a new dwelling (for the garage and living space) could be developed that would place the addition entirely outside the NDZ. Mr Clark stated that the location of both existing septic systems limits what can be proposed on this site. The applicant is also trying to place the dwelling to take full advantage of the existing views from the lot.

Mitigation plantings have been provided, a total 4560 sq ft of plantings will replace some existing lawn and where the existing garage is located. A staked hay bale line will be put in place for a visual barrier, the site is relatively level as is and little grading will be necessary.

Commissioner Scott stated that the pruning job that had been permitted did not appear to have been completed according to the conditions of the permit. It appeared that several pines and a large cherry had been topped. She also questioned whether the applicant was removing trees for the proposal.

**The hearing was continued to September 2, 2009.**

**83 Seagull Road, Outermost Harbor Marine LLC-owner, Turning Mill Energy LLC-applicant, SE 10-**

: The hearing was opened for an NOI for the proposed new wind energy turbine to be located within existing shell-surfaced parking lot 83 Seagull Road. Wetlands Scientist Arthur Allen and contractor Tony Johnson represented the applicant. Mr Allen returned the abutter notification cards. He presented revised plans at the table; the addition of the hay bale line was added to sheets C2 and Z2 and a construction sequence was added to sheet Z2. The Commission was in receipt of a series of colored photographs of the current site and photo- simulations of the proposed site conditions, a Variance Request narrative and an Alternatives Analysis ( the wind turbine would be located with the 50-NDZ to the Coastal Bank) provided by the applicant. The entire site is within Land Subject to Coastal Storm Flowage and the wind turbine would be sited within 100-ft of the coastal bank. The coastal bank on this site is defined by the vertical retaining wall and the boat ramp.

The proposal consists of the installation of a micro-wind 4-knot turbine on a 60-ft tall monopole tower and a 10-ft x 10-ft , 6-ft deep foundation. The depth and size of the pad is determined by the wind load. The turbine revolves vertically on the pole and would be located in the existing, shell driveway of the marina, approximately 38 ft from the top of the coastal bank. The placement of the tower was chosen by the location of the existing electrical conduits; Mr Johnson stated that the power generated by the turbine will not be sold to other subscribers, the power will only be used by the marina.

The proposal is below the 25 Kw threshold for a MEPA filing, therefore no level of MEPA review is required. The proposal is not located in an area subject to NHESP. There is no lighting associated with the tower, Mr Johnson stated that the FAA does not require lighting for a tower less than 200-ft in height. The Commission questioned whether there had been studies on this kind of turbine with respect to bird and bat mortality. In an email from Mass Audubon, Bob Prescott stated that lack of lights on the tower will deter some bird species from the tower in a storm event. Additional information would be necessary regarding types of lighting. Ms Andres stressed that monitoring of the lighting and its effect on wildlife would be very important.

In response to questioning by the Commission regarding Alternative Site locations, Mr Johnson stated that the turbine was proposed in an already disturbed area of driveway, on a flat spot. There did not appear to be any other better location.

From the audience abutters John Hausner, Matt Maddock, Ed Czaczkes and Robert Cunningham objected to the proposal due to possible impacts to wildlife. William Riley, Esquire representing abutter Gary Starr objected to the proposal since the turbine would be located in the Atlantic flyway for some migratory birds and the applicant has not provided a statement from a structural engineer regarding flood water impact to the tower pad. Abutter Phil Pratt noted that there is already a lot of lighting from the marina under normal operating circumstances.

Letters objecting to the proposal from abutters Kathryn Arnone, the Oceanfront Condominium Association and Jean O'Finney dated July 30, 2009, August 1, 2009 and August 4, 2009 respectively were read into the record.

**The proposal is scheduled on the ZBA agenda for Aug 27, 2009; the hearing was continued to August 19, 2009 for the following information:**

- ◆ **Comment from Mass Audubon**
- ◆ **Clarification on proposed amount of lighting**

- ◆ Clarification on need for de-watering excavated materials
- ◆ Information from Mass Maritime School

**Pcl 4 North Beach, William Hammatt, Esq.-owner, Roy Coppedge, John/Lee Kelley, John F Shea and Todd Thayer-applicants, SE 10-** The hearing was opened for an NOI for the After –the-fact filing for relocation of Hammatt camp and Coppedge camp and demolition and removal of Thayer, Shea & Kelley camps on North Beach. Wm Riley, Esq represented the applicants. He stated that only the Hammatt camp remains after Shea, Kelley, Thayer and Coppedge/Fuller camps have been removed. Currently the camp is on cribbing and iron beams and has been moved back to the edge of his property.

If the Hammatt camp becomes endangered and it becomes necessary to remove the camp, Mr Riley stated that no heavy equipment will be necessary. The Commission wanted the property line documented between Hammatts and the National Seashore. It was acknowledged that Eldredge Surveying and Engineering is the only company that probably has enough data to produce that information. The following information was requested:

- ◆ Before-the-fact Work Protocol detailing the steps that would be necessary for the camp to be removed in a storm event or otherwise
- ◆ An “as built” plan of the location of the camp, the outhouse and the property lines
- ◆ Location of MHW with respect to the camp- Mr Riley acknowledged that at high tide there is water under the HAMmatt camp

**The hearing was continued to August 19, 2009**

**88 Howes Lane, Angela Napolitano, SE 10-2555:**The hearing was re-opened for an NOI for the proposed demolition of existing dwelling to foundation; proposed construction of a new dwelling on existing foundation with cantilevered additions and garage addition at 88 Howes Lane. David Clark of Clark Engineering LLC represented the applicant; he stated that the application had been approved by ZBA on July 23, 2009. He had supplied the Commission with revised plans to reflect the location of the proposed concrete patio beneath the deck on both the landscape plan and the site plan.

There is 464 sq ft of mitigation proposed for the increased disturbance in the NDZ in the form of plantings along the top of the coastal bank. There is approximately 125 sq ft of increased disturbance in the NDZ, including the stepping stones walkway.

Mr Clark stated that the applicant would like to re-establish an existing foot path leading to Bucks Creek, it is overgrown but visible enough to determine the current location. The Commission felt that re-establishing the footpath would be OK under this filing but did not agree to allow Mr Clark's request for annual pruning for view enhancement to be included in this filing.

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

**Mill Creek Estuary Channel, Town of Chatham-owner, Director of Coastal Resources-applicant, SE 10-2557:** The hearing was re-opened for an NOI for the proposed dredging of Mill Creek channel; proposed habitat restoration and proposed beach nourishment at Mill Creek Estuary Channel. Coastal Resources Director, Ted Keon, represented the Town of Chatham The Commission was in receipt of a letter dated August 4, 2009 from the Division of Fisheries and NHESP. The letter indicated that there was no need for MEPA review unless the scope of the project changed.

In a letter dated August 3, 2009, the Division of Fisheries and Wildlife recommended that the dredge permit be limited to five years. Historically, Mill Creek and Taylor's Pond have been identified as winter flounder spawning habitat. Mr Keon stated that he was happy with the Commission issuing the Order of Conditions for dredging for a ten--year period, but would respect the Division of Marine Fisheries request for a five year permit.

Discussion ensued regarding re-location and use of plant material that may be removed or damaged during the work at Mill Creek.

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

**97 Tilipi Run, Mary Holmes, Trustee- applicant, 97 Tilipi Run Nominee Trust-owner, SE 10-2550:**

The hearing was re-opened for an NOI for the proposed completion of single family dwelling, pool and terrace; proposed installation of gravel drive, cobble paving and landscaping at 97 Tilipi Run. William Riley, Esquire represented the applicant. He reviewed the revised plans that were received by the Commissioners showing the location of the pool fence 6-ft below the crest of the coastal bank. This is the location that was discussed in a prior hearing with David Lyttle of Ryder & Wilcox, Inc

Commissioner Chamberlin confirmed that the area on the eastern side of the dwelling shown on the plan as "Mitigation Area 950 sq ft" will be planted with woody shrubs.

Commissioner Scott questioned the extent of lighting that was proposed for the patio and living areas and whether there would be adverse impact on wildlife.

The proposal is scheduled on the ZBA agenda for Aug 13, 2009; **the Commission continued the hearing to August 19, 2009.**

**Strong Island, Jay Cashman-applicant, Chatham Conservation Foundation Inc-owner, SE 10-2516:**

**The hearing was re-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. Bob Cummings/EMS Services, architect Oliver Nicolaeff & William Riley, Esq represented the applicant. Several points from the last discussion were clarified.

- ◆ A colorized foundation plan dated August 5, 2009 was submitted by Mr Nicholaeff detailing the location of the foundation that will remain from the old dwelling and the location of the new frost wall foundation. It appears that the foundation is being expanded by approximately 700 sq ft. The deck will be supported on 4-5 additional sonotubes. Mr Cummings stated that the footings will be hand dug 4-ft in depth, there will be no need for large equipment for the excavation. Mr Cummings agrees to provide a foundation plan.
- ◆ The greenhouse re-construction has been removed from the application
- ◆ The East Meadow restoration has been removed from the application
- ◆ The pathway leading to the house will terminate at the turn-around
- ◆ The construction of the dwellings could be conducted in two phases. Discussion ensued regarding pros and cons of completing the project in two phases vs completion of the project in one phase
- ◆ All the materials for the whole project will be brought over to minimize barge trips. Skip buckets will be used to move the debris materials around; a forklift will remain at the building site to unload Skip buckets. Mr Cummings stated that four barge trips would be necessary to get all the construction supplies to the island. Ms Andres reminded the applicant that due to the historic presence of eelgrass and the location of the site in the ACEC, the barge cannot ground out anywhere in Pleasant Bay.
- ◆ The sequence of tides was reviewed in a narrative dated July 29, 2009 prepared by EMS.

A Mitigation planting plan has been developed. The total amount of disturbance for the house minus the greenhouse will be 3320 sq ft. The planting plan shows a 10-ft wide strip of mitigation plantings along the top of the coastal bank up to the evergreens in the front of the house.

The Commission felt that the road that will be used for transport of all the construction materials, including the huge amounts of landscape stone needed to be protected by mats, steel plates, etc. Mr Cummings disagreed and felt that by using smaller, rubber tire machines would negate the need for protection of the roadway. He stated that the road only floods at a moon tide and that the roadway surface consists of a hard pack soil mixture that can stand the traffic.

Commissioner Scott re-iterated that the agreement between the Foundation and the Cashman/Horsts should be reviewed. Ms Andres noted that there is no Conservation Restriction on Strong Island.

The Commission would like to have a supervisor/Clerk of the works who could be contacted by the Agent

Mr Riley addressed and explained the following points:

- ◆ Limitations on the building size of the new dwelling was negotiated prior to the agreement; the 3-acre parcel of the island that Mr Cashman has use of can support the nine bedroom house (and guesthouse-as he called Mrs Horst's separate living quarters)
- ◆ The Deed is a matter of public record and is available at the Registry of Deeds in Barnstable
- ◆ The agreement between the Conservation Foundation and the Horst/Cashman family was a result of litigation regarding the repairs to the utility cable
- ◆ The agreement relieved the foundation from any liability for the utilities
- ◆ Vehicles are not forbidden on the island
- ◆ The Horst/Cashman is a "reservation agreement" as opposed to a "lease agreement"; according to Mr Riley, a reservation is more powerful than a lease

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

**Certificates of Compliance were signed for the following projects:**  
**112 Salt Marsh Way, patore, SE 10-2286**  
**Shore Rd & Claflin Lndg, CBI, SE 10-2452**

**Agent Report/Discussion**

**Adjournment: It was moved, seconded and voted to adjourn the meeting at 10:55 PM.**

**Respectfully submitted,  
Mary Fougere**