

A quorum was present. Those in attendance included Carol Scott (until 5:30 PM), Corinne Johnson, Billie Bates, Eric Hilbert, Jay Putnam (4:15 PM), Chairman Paul Chamberlin, Associate Member Keith Hutchings, Conservation Agent Kristin Andres and Secretary Mary Fougere. Commissioner Barbara Skelley was absent.

**Parcel J6 John Gilpin Lane, Charwich Realty Ventures LLC, SE 10-2434:** The hearing was re-opened for a Notice of Intent (NOI) for the proposed construction of a single family dwelling at Pcl J6 John Gilpin Lane. John McCormack, Esquire represented the applicant. Terry Eldredge had provided a landscape plan on the site plan dated August 25, 2008. The plan also shows the calculations of increased disturbance in the area 50-100 ft from the Inland Bank and 50-100-ft of the BVW. Mr. McCormack stated that the amount of permanent disturbance in the 50-100 AURA from the BVW is 42%; the applicant was asked to provide this figure at the last meeting. The amount of permanent disturbance in the 50-100 AURA to the top of the inland bank remains at approximately 60 % of coverage.

The Commission reviewed the landscape plan; the Chair re-iterated the guidelines for re-vegetation in a resource area. For the Commission to find this plan to be adequate, the density and size of plantings must be adequate to return the lot to dense wildlife habitat. In order to fit this much house on this lot, the rest of the resource area has to be restored. Ms Andres indicated that the scale on the plan was inaccurate; it appeared that the plantings were 5-ft on center, plant size was 2-gal. The size and density of proposed plantings was inadequate for habitat renewal.

In response to questions from the Commissioners, Mr. McCormack stated that there has been no re-configuration of the structure. It was his understanding that the Commission was ready to accept the plan after the landscaping plan was submitted. The Commissioners had asked several times during the hearing process whether the applicant would consider downsizing the dwelling and/or deck or re-designing it to fit the lot. To date, the footprint has not changed and the applicant has never offered any substantial reason why the house has to be situated so far into the resource area.

From the audience, Michael Flugger questioned whether there was any proposal to develop a beach on White Pond. The Chair noted that there is no proposal to develop a beach in front of them at the moment; there is an existing path leading to the pond and should any work be proposed on the beach front, the applicant would have to come back before the Commission.

Several audience members had questions regarding the AURA(Adjacent Upland Resource Area) to the resource area. The Chair explained that the first 100-ft from any wetland resource area is protected by the State and local wetlands protection regulations. This lot has two wetland areas, White Pond and its associated BVW and the Inland Bank to White Pond. Both wetland delineations are shown on the plan. The first 50-ft from the resource areas is considered a N0-Disturb Zone under the local by-law. The 50-100- ft

AURA is not a No-build Zone, but an area that the Commission seeks to maintain as a resource area. Activity is not prohibited, however the Commission tries to minimize activity; Commissioner Hilbert stated that the Commission has tried consistently to hold development of the outer AURA to less than 50% of the area. The Chair referred the audience members to "Part IV-Regulations for Adjacent Upland Resource Areas" of the Chatham Wetlands Protection Regulations.

From the audience, Gloria Freeman asked questions that were related to zoning concerns, not Conservation concerns. From the audience, an abutter who shared the property line to the west of the applicant's lot, questioned the location of the lot line and had several questions regarding the work of the Commission.

Letters objecting to the proposal from abutters Kathleen Roper and Roger & Jerry DeGesu, dated August 25, 2008 and August 23, 2008 respectively were read into the record.

The Commission questioned whether the applicant would like to continue the hearing to address the concerns from the hearing or whether the hearing should be closed. Mr. McCormack requested that the Commission close the hearing. **It was moved, seconded and voted to close the hearing.**

**Lot 3 Betty's Path, Minot Acres, LLC, Gregory Edson- owner/applicant, SE 10-2475:** Re-opening of hearing for proposed construction of single family dwelling with driveway and utility connection at Lot 3 Betty's Path, Assessors Map 12E parcel 3.

**Lot 4 Betty's Path, Minot Acres, LLC, Gregory Edson-owner/applicant, SE 10-2476:** Re-opening of hearing for proposed construction of single family dwelling with driveway and utility connection at Lot 4 Betty's Path, Assessors Map 12E parcel 4.

**Lot 5 Betty's Path, Minot Acres LLC, Gregory Edson-owner/applicant, SE 10-2477:** Re-opening of hearing for proposed construction of single family dwelling with driveway, apartment, pool and utility connection at Lot 5 Betty's Path, Assessors Map 12E parcel 5.

**Lot 6 Betty's Path, Minot Acres LLC, Gregory Edson-owner/applicant, SE 10-2478:** Re-opening of hearing for proposed construction of single family dwelling with driveway and utility connection at Lot 6 Betty's Path, Assessors Map 12E parcel 6.

**Lot 7 Betty's Path, Minot Acres LLC, Gregory Edson- owner/applicant, SE 10-2479:** Re-opening of hearing for proposed construction of dwelling with driveway and utilities at Lot 7 Betty's Path, Assessors Map 12E parcel 7.

**Lot 8 Betty's Path, Minot Acres LLC, Gregory Edson-owner/applicant, SE 10-2480:** Re-opening of hearing for proposed construction of single family dwelling with driveway and utility connection at Lot 8 Betty's Path, Assessors Map 12E parcel 8.

**Lot 9 Betty's Path, Minot Acres LLC, Gregory Edson-owner/applicant, SE 10-2481:** Re-opening of hearing for proposed construction of single family dwelling with driveway and utility connections at Lot 9 Betty's Path, Assessors Map 12E parcel 9.

**Lots 3-9 Betty's Path, Minot Acres LLC, SE 10-2475-SE 10-2481:** J Thaddeus Eldredge represented the applicants; he stated that he had preliminary plans ready reflecting the concerns of the Commission discussed at the last hearing. The applicant had not yet reviewed the changes. **He asked that the hearings be continued to September 3, 2008, at which time the applicant will be better able to decide on a date certain for the Commission to hold a Special Meeting to re-open the hearings on the lots.**

**368 Seapine Road, Goldstein, SE 10-2469:** The Zoning Board of Appeals had requested comment on the proposal at 368 Seapine Road. The Commission has reviewed the Coastal Engineering Company Inc plan dated June 12, 2008, revised August 12, 2008, for the proposed expansion and renovation of an existing dwelling at the above address. The project includes elevating the dwelling above the 100-yr flood level on a FEMA compliant foundation, constructing a 234 sq ft addition, adding a second floor and expanding the existing deck area by 600- sq ft. The septic system is to be upgraded and the landscaping will be substantially revised.

The proposed work is within the Coastal Flood Zone, elevation 11.0 ft, and within 100-ft of a revetted coastal bank at the east end and a salt marsh to the south and within the 50-ft No-Disturb Zones (NDZs) for one or more of the above resource areas. The property is already intensely developed and there are no areas of naturalized vegetation which will be altered by the project.

The applicant has submitted a landscape plan (Blade of Grass plan dated June 11, 2008 revised August 12, 2008) which shows a 280 Sq ft increase in lawn area, replacement of timber retaining walls with stone walls, and the replacement of a path on the east side of the dwelling where a few grade change timbers and some gravel currently exists, with a continuous path of granite slab steps and stepping stones.

As mitigation for increased lot coverage in flood plain, the applicant has proposed a three year program of controlling invasive plants in two areas of the property, replacing the dense invasive vegetation with densely-planted native shrub species. Since the Commission has recently addressed bank erosion issues on this property, certainly elevating the dwelling above the flood level and upgrading the septic system are positive features of the project. Also accepting control of invasives as mitigation for the 234 sq ft increase in building footprint is not an issue and these portions of the project could be conditioned to protect the flood plain resource.

However, the Commission needs to work with the applicant on the proposed hardscape and lawn expansion features of the project on this intensely developed property in an environmentally fragile area.

**175 Balfour Lane, Stein, SE 10-2468:** The ZBA had requested comment on the proposal at 175 Balfour Lane. The Commission has reviewed the Coastal Engineering Company

Inc plan dated June 19, 2008 revised August 12, 2008 for the demolition of an existing dwelling and the construction of a new dwelling within the same footprint at the above address.

The proposed work site is located within the 50-ft No-Disturb Zones (NDZs) to a BVW fronting White Pond to the west and the BVW fronting Black Pond to the east. The site is currently developed and no native vegetation will be removed by the proposed work. The only footprint change from what currently exists is that the deck will be replaced by a dry-laid bluestone patio.

Demolition of the existing dwelling will be done by hand and the debris removed in small trucks. Footing excavation for the new crawl-space foundation is expected to encounter ground water and a de-watering/sedimentation basin has been shown on the plan. Concrete for footings will be mixed on-site and the foundation itself will be concrete block. Site re-vegetation will include the planting of native shrub species.

Although the culvert connecting White and Black Ponds will be covered with a steel plate, no heavy machinery or trucks will be allowed access to the site. The Commission finds that this labor-intensive project on an environmentally sensitive site can be conditioned to avoid adverse impact to the bordering wetlands.

**80 Bridge Street, Stage Harbor Marine, SE 10-2401:** The ZBA had requested comment on the proposal at 80 Bridge Street. The Commission has reviewed the Coastal Engineering Company Inc plan dated February 15, 2008 revised April 30, 2008 for the proposed rehabilitation of the dock and pier facilities at Stage Harbor Marine. The work includes the replacement of structurally failing bulkheads, replacement of a rock and rubble revetment with a new bulkhead, dredging seaward of the new bulkheads within the licensed dredge footprint and a re-configuration of floats and slips. No increase in the existing number of boat slips is proposed, although the square footage of float area will be substantially increased with the installation of 10 new 8-ft by 24-ft floats along the entire bulkhead.

Impacted wetland resource areas include Coastal Bank, Coastal Flood Zone and Land Under the Ocean. Although the site is already intensely developed, the increase in width and length of the boat ramp and the excavation and removal of coastal bank and upland area in order to bring the harbor waters landward constitute new disturbance. It would appear that enlarging the boat basin to the east of the boat ramp exceeds the applicant's licensed dredge footprint and may require further review.

Repair of the failing bulkheads would be an environmental improvement; and in the absence of viable eelgrass shellfish habitat adjacent to the bulkhead, the Commission has no issue with the installation of the proposed new floats in this area.

With a resolution of the expanded dredge footprint issue, the Commission finds that this project can be conditioned to minimize additional adverse impact to the adjacent resource areas.

**160 Wapoos Trail, Cantu, SE 10-2453:** The ZBA had requested comment on the proposal at 160 Wapoos Trail. The Commission has reviewed the Coastal Engineering Company Inc plan dated May 1, 2008 for the proposed construction of a 62 sq ft addition and two cantilevered balconies to an existing dwelling at the above address. Also proposed is a third floor addition which does not extend the building footprint.

All proposed work is within the 50-ft No-Disturb Zone (NDZ) to the top of the coastal bank fronting a salt marsh bordering Stage Harbor. The construction area is currently developed and no native vegetation will be disturbed.

The proposed addition will be supported on a sono tube foundation approximately 2 ft above grade. The applicant has proposed a 248 sq ft area of mitigation plantings contiguous with the naturalized vegetation along the top of the coastal bank.

The Commission finds that this minor project can be conditioned to avoid adverse impact to the coastal bank and its NDZ.

**Approval of Minutes:** The minutes of June 4, June 18, June 25 and July 16 were approved as amended at the table.

**Pcl J6 John Gilpin Lane, Charwich, SE10-2434:** Discussion ensued prior to voting on the proposal to construct a new dwelling, deck and garage at Pcl J6 John Gilpin Lane. Commissioner Scott stated that the Commission asked the applicant at every meeting whether there would be a change in the footprint of the dwelling in order to minimize impact to the outer AURA. The Commission extends itself to applicants in order to assist them in obtaining permits for their proposals. In this case, the applicant did not show flexibility in changing the size or shape of the dwelling to better fit the lot.

Commissioner Johnson stated that although the applicant has been responsive to the concerns of the Commission in a couple areas, the Commission has been clear at every meeting that this dwelling will have a large impact on the lot and that there could be additional concessions made by the applicant to reduce the concerns of the Commission. The entire section, Part IV, of the Chatham Wetlands Protection regulations addresses the AURA and is very clear about increased disturbance; she felt that in reading this section of the regulations, allowing 50% disturbance was generous. Applicants should be aware of the requirements when proposing new construction on an undeveloped lot.

Commissioner Hilbert was disappointed that the applicant opted to close the hearing since he felt that the Commission and the applicant were close to a compromise necessary to permit the project. In order to be consistent with past practice, he did not feel

that the applicant had provided an adequate re-vegetation plan or reduced the amount of construction to meet 50% or less of disturbance in the outer AURA on this site.

Commissioner Chamberlin stated that this project has been under review for some time. The Commission has allowed time for review even though the first plan did not show the existing resource areas, nor did the second one. After an on-site meeting with Mr Eldredge, the applicant and the Commissioners, a break in the bank was located and there were enough contiguous points in the field to delineate the inland bank. To the casual observer, the top of the inland bank should be higher.

He was surprised that the applicant has done nothing to change the design of the dwelling even though the question was raised several times during the hearing process. The applicant has never been clear what the necessity was of proposing this amount of incursion into the AURA, on an undeveloped lot. He feels that if the Commission gives up more than 50% of the AURA on this site, then the area ceases to function as a resource area.

**It was moved, seconded and voted to deny the proposal. The vote was unanimous.**

**21 Patten Lane, Longtine, SE 10-2439:** Ms Andres circulated photographs taken during her inspection for the Certificate of Compliance. The re-vegetation was exemplary; a Certificate of Compliance was signed.

**296 Shore Road, CBI, SE 10-2067:** A Certificate of Compliance was signed.

**357 Stony Hill Road, Rushnak:** Senior Biologist at ENSR, Don Schall, responded to Ms Andres concern that the plan submitted for the restoration of the cleared area on Stony Hill Road was inadequate. To date there is no plan and Ms Andres has not re-visited the site, although she has received word from Mr Rushnak that the loam has been spread, as required.

In his email, Mr Schall wrote that the applicant is amenable to increasing the number of woody shrubs from 40 to 80 and that 8 tree specimens will be 1" in diameter. The debris pile will also be removed.

The Commission agreed on the following:

- The diameter of the trees should be 2-1/2"-3" cal; Mr Rushnak did not take down trees during the clearing but many of them now show signs of turpentine beetle.
- The Commission will accept 80 woody shrubs with the understanding that once planted, if the coverage on the lot is not adequate to provide habitat near the vernal pool, then the applicant will plant additional shrubs. The Commission approximated that mitigation will be required for 1260 sq ft of cleared ground.
- The Commission would like to have the shrubs planted in clusters and planting concentrated in areas beginning at the edge of the wetland outward.

- The planting should be accomplished by October 15, 2008. Ms Andres will send a letter to Mr Rushnak advising him of the Commission's decision.

Misty Meadow Lane: No one was present to represent the applicant as required in the last correspondence. Ms Andres had verified with Mosquito Control that the clearing work in the wetland was not completed by their employees.

The applicant still has not provided a re-vegetation restoration plan requested by July 28, 2008 or removed the debris pile; it will be necessary for the applicant to consult a wetlands specialist.

**The Commission voted to issue fines in the amount of \$300.00/day. An Enforcement Order was signed.**

**414 Fox Hill Road:** The homeowner would like to perform limited pruning for view; the applicant provided photographs of the work to be performed. The Commission agreed that the work could proceed under an Administrative Review; no additional filing would be necessary.

**12 Cynthia Drive, Tolley:** The applicant had met with Ms Andres and supplied photographs of pines that he would like to remove. The trees are in close proximity to the dwelling and are infested with turpentine beetle. The work would be completed in the winter months. Commissioner Bates opposed the removal of tree #4 in the photos.

The Commission agreed that the work could proceed under an Administrative Review; no additional filing would be necessary.

**94 Seashells Drive, Schwartz:** The applicant would like to remove Japanese knotweed by hand cutting to ground level. This was already done once by the previous owner during construction of the house.

The Commission agreed that the applicant could proceed with the removal one time only; due to the invasive nature of plant, the debris must be disposed of in plastic and removed from the site.

**87 Morris Island Road, Nicholson:** The applicant would like to plant several White pine along her property line. The proposed work is in the AURA to the Flood Plain. The Commission agreed that the work could proceed under the Administrative Review without an additional filing.

**Adjournment:** It was moved, seconded and voted to adjourn the meeting at 6:05 PM.

Respectfully submitted,

