

A quorum was present. Those in attendance included Paul Chamberlin, Nat Mason, Jay Putnam, Richard Woodward (left at 10:20 PM), Eric Hilbert, Associate Members Billie Bates and Joseph Manteiga, Conservation Agent Kristin Andres and Secretary Mary Fougere. Those absent were Commissioner Carol Scott and Associate Member Ira Seldin.

The following hearings were continued as listed:

- ✦ **160 (Lot 3) Crow's Pond Rd, Richard/Judith Morrissey, SE 10-2203:** Continued to April 2, 2008
- ✦ **Lime Hill Road, Lucy Buckley-owner, Gregory Edson, Minot Acres LLC-applicant:** Continued to April 2, 2008
- ✦ **59 Barcliff Avenue, Leslie Borkowski, SE 10-2385:** Continued to April 16, 2008
- ✦ **24 Ryder's Cove Road, Sean & Rosarie Summers, SE 10-2339:** Continued to April 16, 2008
- ✦ **35 Oyster Pond Lane, Kenneth Nickerson/Katherine Deyst, SE 10-2403:** Continued to April 2, 2008
- ✦ **11 Crest Circle, Mark/Jane Sherman, SE 10-2411:** Continued to April 16, 2008

152 Cockle Cove Road, Timothy/Linda O'Brien: The hearing was opened for a Request for Determination of Applicability (RDA) for the proposed tree removal and pruning at 152 Cockle Cove Road. Phil Cheney represented the applicants and returned the abutter notification cards. Color Photographs of the proposed work were circulated showing which trees would be trimmed on the coastal bank. The applicant would like to remove a large pine and Mr. Cheney felt that the applicant would be amenable to planting another evergreen tree elsewhere on the property. The Commission noted that there were several sprouting oaks indicating that there had been tree removal in the past.

In a letter dated March 18, 2008, abutter Elizabeth Terry reminded the Commission that there was a Chatham Water Department right-of-way in the area; she hoped that this right-of-way would not be obstructed in any way by this proposal.

It was moved, seconded and voted for a Negative Determination with the condition that a 5-6-ft White cedar or Eastern red cedar be planted.

97 Captain's Walk, Hoenemeyer NT, Frank J Hoenemeyer OPRT-owner, William Koerner-applicant: The hearing was opened for an RDA for the proposed tree removal and tree pruning to create a view corridor at 97 Captains Walk. Nancy Koerner was present and returned the abutter notification cards. She circulated photos of the historical view of North Beach and Pleasant Bay from 95 Captains Walk. The Commissioners had not observed the view from 95 Captain's Walk during their site visits but had only visited 97 Captain's Walk. The consensus was that there was no obstruction of view from 97 Captain's Walk, although it was noted that a large oak seen from Hoenemeyer property had been topped recently.

Abutter Harry Goldberg objected to the proposal in a letter received in the Conservation office on March 3, 2008.

The hearing was continued to March 26, 2008 to allow the Commissioners to visit 95 Captain's Walk.

101 Geranium Drive, Mary/Patrick McCauley: The hearing was opened for a Notice of Intent (NOI) for the proposed construction of a landscape wall and patio at 101 Geranium Drive. Tom Stello of Eldredge Surveying & Engineering LLC represented the applicant and returned the abutter notification cards. The patio and retaining wall work is outside the 50-ft No Disturb Zone to the edge of wetland and outside the flood plain. There is an existing concrete patio on the eastern side of the dwelling, the new, proposed patio will be laid in sand and the retaining wall will surround the new patio. At the limit of work has been set far enough around the patio for machinery to get around to the north side. Mr. Stello stated that the large pine outside the retaining wall will remain.

The Commission observed that although there is no mitigation proposed, the site has several areas where mitigation plantings would enhance the existing vegetation.

The hearing was continued for a mitigation planting plan to April 2, 2008.

39 Homestead Lane, Jay Poppleton: The hearing was opened for an NOI for the proposed construction of additions to a dwelling and proposed addition to a garage; proposed construction of retaining wall, steps and dry well; proposed removal of existing decks and proposed re-orientation of brick walkway at 39 Homestead Lane. David Lyttle of Ryder & Wilcox represented the applicant and returned the abutter notification cards. He circulated revised plans and calculation sheets showing mitigation planting area for review. The site overlooks the Little Mill Pond. The project is within 100-ft of the coastal bank, flood plain and salt marsh. The lot is small and has a sewer pump station and a Town Landing in front of it.

The site is developed already with existing lawn, privet hedge, patio and decks. The lot is odd-shaped and Mr. Lyttle has proposed a vegetated buffer along the top of the bank that would be trimmed to a three foot height so that people sitting on the patio could see the Mill Pond over the vegetation. There is a large wood pile right along the top of the bank that will be moved as well. New stockade fencing and stepping stones follow the property line on the southwest side of the property; there is a woody area on this side that would benefit from additional mitigation. The fencing is probably in the flood plain and goes right to the ground; the Commission felt that there would have to be changes made in the fencing to allow wildlife to pass. Additionally, the fence installation should be added to this filing as it does not appear to have been permitted. The house has recently changed hands and it was thought that the fence was installed by the previous owner.

The limit of work has been set quite wide so that a drywell could be installed for storm water run-off. The commission questioned if the drywell could be eliminated and trench drip lines be installed as an alternative; the work limit line could then be brought in closer to the dwelling. Architect Chris Cannon was amenable to the suggestion.

A Special Permit will be required and the proposal is scheduled on ZBA agenda for April 17, 2008. **The Conservation hearing was continued to April 2, 2008.**

24 Squanto Drive, Kenneth Ritchie Realty Trust-owner, Stello Construction-applicant: The hearing was opened for an NOI for the proposed removal of existing deck and proposed construction of first floor porch with second floor living space at 24 Squanto Drive. David Clark of Clark Engineering LLC represented the applicant and returned the abutter notification cards. The applicant is remodeling the house and would like to expand with a second floor deck supported on sono tubes.

There will be no excavation involved for a foundation but the sono tubes will be installed with a bobcat machine. From the audience, Chris Ritchie noted that plantings and a patio were installed on the bulkhead side. The Commission noted that this work was completed in the No-Disturb Zone (NDZ) without a wetlands permit and an after-the fact permit was supposed to be filed. The Chairman noted that the leftover sand from the patio excavation had been thrown over the bank.

From the audience, abutter George Daggett, Esq. objected to the proposal; he also had submitted a letter to the file.

A Special Permit will be required; the Conservation hearing was continued to April 16, 2008 **The Commission continued the hearing until April 16, 2008 for the following:**

- ✦ **The plan will show the area at the top of the coastal bank where the patio and foundation plantings were completed**
- ✦ **The plan will show 1:1 mitigation for the patio portion that is in the NDZ and the new construction and show the mitigation contiguous with existing vegetation.**

47 Oceanport Lane, Andrew S Holik Trust-2000-owner, Andrew Holik-applicant, CWP-08-044N: The hearing was opened for a Notice of Intent filed under the local bylaw only for the proposed removal of existing dwelling and shed and proposed construction of new, single family dwelling at 47 Oceanport Lane. Stephanie Sequin of Ryder & Wilcox represented the applicant and returned the abutter notification cards. She stated that the 100-ft Adjacent Upland Resource Area (AURA) to the isolated wetland covers the entire 13, 000 + sq ft lot; a portion of the existing dwelling and the existing shed are in the 50-ft NDZ to the wetland. The Commission reviewed the Ryder & Wilcox plan dated March 3, 2008 revised March 12, 2008.

The Board of Health has already approved the septic design with no variances for the previous owner; the design incorporates IA technology. The existing two bedroom dwelling will be removed and replaced by a three bedroom dwelling. The house was sited on the lot respecting all health department regulations and the zoning requirements from the street setback. A full foundation will be poured; the new proposal would result in an increase of 165 sq ft of site coverage.

Commissioner Mason suggested that the house be moved further outside the NDZ; under the local bylaw, all isolated wetlands are presumed to be vernal pools. A vernal pool has a 100-ft NDZ associated with it.

As mitigation, Seth Wilkinson of Wilkinson Ecological Designs has proposed:

- ✦ The existing shed area will be planted with native species and allowed to naturalize; the plan reflects the shrubbery selections
- ✦ The yews at the top of the inland bank will be removed; a large oak tree will remain, since its root structure is firmly established in the bank
- ✦ The previous owner had used the wetlands for disposal of yard waste; the applicant will clean out the debris by hand
- ✦ A Land Management plan could be incorporated into the proposal for control of invasives

The hearing was continued to April 2, 2008 for receipt of revised plans reflecting the concerns of the Commission.

42 Harbor View Lane, Keith/Janet Sherin: The hearing was opened for an NOI for the proposed shorefront protection at 42 Harbor View Lane

54 Harbor View Lane, John/Doon Foster: The hearing was opened for an NOI for the proposed shorefront protection at 54 Harbor View Lane

620 Old Harbor Road, Paul/Patricia Gannon: The hearing was opened for an NOI for the proposed shorefront protection at 620 Old Harbor Road

Pcls M01 & 5 Old Harbor Road, Hollis Kahn c/o W Roamer Realty Trust: The hearing was opened for an NOI for the proposed shorefront protection at Old Harbor Rd.

19 Cowyard Lane, John/Lesley Nicholson: The hearing was opened for the proposed shorefront protection at 19 Cowyard Lane.

Mark Burgess and Roy Okurowski of Coastal Engineering Company Inc represented the five property owners and returned the abutter notification cards. Mr. Okurowski stated that due to the new break in North Beach, the five families fear there may be harsh erosion in their area in the future and are trying to be pro-active in erosion control. The purpose of the project is to stabilize scarped areas along portions of coastal beach and coastal bank. The property consists of relatively flat area from the pre-1978 dwelling to the top of the coastal bank. From the base of the coastal bank, the area drops further in elevation and then rises a bit over a dune landform, then drops gradually to mean high water with a salt marsh fronting the area. There is a FEMA mapped velocity zone fronting the salt marsh, with a landward A-zone to the coastal bank.

According to Mr. Burgess, for the most part the existing bank is well vegetated. In some areas where the scarping is more severe, slippage of the vegetation has occurred. The vegetation cannot be successfully restored until the base of the bank is stabilized. The applicants would install vinyl sheeting at the base of the bank which will provide immediate protection against the existing scarp activity. The sheeting is proposed since this installation can be done with a minimum amount of impact to the site. The area from the base of the coastal bank to the dune landform will be nourished and planted to bury the sheeting. Once buried and planted, the site will look exactly like it does today. Snow fencing will be installed at the crest of the dune landform, where applicable, to capture available wind blown sand to build and maintain the

dune. Should erosion from the new break occur at a faster rate, the sheeting will be in place to protect the area. Although no reliable estimates can be made as to the future configuration, the 2007 break is exhibiting some of the characteristics as the 1991 break. A construction protocol was submitted with the Notice of Intent application.

Mr. Burgess felt that the proposed project protects the property now and prepares the site for future shorefront protection should that be necessary. All of the dwellings in this filing were built pre-1978.

Mr. Okurowski stated that extensive topographic and hydrographic survey was performed along the entire shoreline from the Cowyard public landing north to Linnell Lane. Data was collected for approximately 300 linear ft seaward of MLW to the top of the coastal bank. Transects were run every 100 ft and will be monitored every six months. In response to a question from the Chair regarding detrimental erosion effects at the Maurice Hartley residence caused by the installation of steel sheeting, Mr. Okurowski submitted a letter of project information dated March 20, 2008.

Commissioner Hilbert stated that he has observed this stretch of beach for many years and it did not appear to be a lot of change. The area appeared to be well vegetated. Commissioner Putnam agreed and said that the area looks to be in good balance, there appears to be ongoing nourishment to the beach grass and beach grass can sustain itself with the amount of nourishment it is receiving. Additionally, underground peat already holds fresh water but the additional transference of fresh water near salt water due to the sheeting will damage the environment. It appears that the sheeting will cut one environment from another.

The Commission felt that erosion control measures such as those proposed are generally considered only when the current state of erosion is well documented, soft solution erosion control measures have been shown to fail and the structures are in danger of destruction. This proposal really does not meet any of those standards for hard erosion control solutions and appears to treat the fear of erosion, rather than the erosion itself.

The Commission acknowledged that the Sherin and Foster properties may need some nourishment in the near future and that the Nicholson property may benefit from the recent installation of snow fencing.

In a letter dated March 19, 2008 Coastal Resources Director Ted Keon suggested trigger point be established for future determination of erosion amounts and rates.

From the audience, abutter Parker Wiseman addressed the installation of snow fencing.

The hearing was continued to May 7, 2008.

25, 55 & 69 Linnell Lane & 116 Old Wharf Road, Robert/Pamela Kindler-applicants, Margeret McCarthy, Paul/Gayle McAdams, Richard/Nancy Doyle & Robert/Pamela

Kindler-owners, SE 10-: The hearing was re-opened for the proposed construction of earthen berm along 810 Ft of the ocean-side, 810 ft of Linnell Lane. Commissioner Eric Hilbert was

recused from the hearing. The applicants were represented by Matt Farrell of J M O'Reilly & Associates, Inc, Sarah Turano-Flores, Esq. William Riley, Esq. and Stan Humphries of LEC Environmental. The J M O'Reilly plan of reference has been revised as of March 13, 2008.

At the last hearing the applicants were proposing to construct an earthen extension along the road to elevate the roadway using a coir envelope system that was "sewn" into the bank and anchored with helical ties. The Commission may dictate the material used to fill the coir envelope, this proposal will use bank run sand. The work was proposed along the entire length of Linnell Lane to the Doyle property. After the last hearing, all of the work has been eliminated to the south and west of the Kindlers, except for that portion in front of the Kindler property at 55 Linnell Lane and the Doyle property at 69 Linnell Lane. These two properties are at the road's lowest elevation. The extent of the work has been reduced from 810 linear ft to 540 linear ft. Both Mr. Riley and Ms Turano Flores have been in contact and negotiated with the Poydars, the McAdams and Ms McCarthy.

The Kindlers and the Doyles are the lowest elevation ; the new proposal maintains the coir envelopes made on site at 6.7 ft (at the top) and the existing gravel drive will maintain the elevation by the McAdams and will extend to 6.5 on the Doyles. The envelopes will extend a few inches landward of the roadway edge that so there will be no erosion of the roadway into the marsh.

The Commission expressed concern regarding the stability of the coir envelopes since they have not been used in Chatham before. The coir envelopes are triple wrapped and will be vegetated with native plants. This will enable the soils to stabilize and stay in place along the roadway. All the drainage pipes have been eliminated because the elevations have been lowered. Commissioner Putnam questioned how the water will get out with the new proposal. Ms Flores stated that the proposal will only be raising the elevation slightly and creating a natural swale. Mr. Riley stated that the height of a storm surge will not be affected. Changing the height of this small area will not displace the water in a storm surge. However, the chairman noted that storm surges in a constricted area could divert flood waters, this is not the same as still water flooding effects. Water will drain slowly should there be still water flooding ,as the flood elevation is at 11.0 ft in this area. Once the waters recede to 6.7, they will be retained by the roadway swale and leach out slowly.

There have been on-going discussions with the McAdams , the Poydars and the McCarthys to mesh the existing grades or any changing grade approved by the Commission in the future. From the audience, Arlene Wilson representing the McAdams agreed that there is a proposal coming in the future that will address the meshing of the elevations at the end. She re-iterated that the current proposal is only for the Kindler and Doyle properties. The existing grade of 6.2 will be increased to 6.5 and then will taper down to 6.2 The Coir envelope will be at 6.7 for the whole length.

From the audience, David Lyttle of Ryder & Wilcox stressed the importance of matching the grades at the ends of the project.

The question of filling in the flood plain may be addressed with a Zoning Bylaw change if it is approved at town meeting. Mr. Riley stated that currently, there is an exemption in the local Wetlands Bylaw that allows the maintenance of roads. He noted that should the coir envelope fail, it will fail towards the land, not the salt marsh.

It was moved, seconded and voted to close the hearing. The vote to close was 3 in favor, 1 opposed and 1 abstention.

248 (Parcel 8C)Stage Neck Road , Good Monomoy LLC- Justin Blair-applicant, SE 10-2313: The hearing was re-opened for a proposed request to Amend an existing Order under SE 10-2313 to include the re-location of an existing footpath at 248 Stage Neck Rd. **The applicant was not present; the hearing was continued to April 16, 2008.**

82 Uncle Albert's Drive Extension, Sage Group LLC, SE 10-2200: The hearing was re-opened for an NOI after the re-advertisement for proposed construction of 4-foot wide chipped path for access to Oyster Pond and proposed construction of access stairs at 82 Uncle Albert's Drive Extension. David Clark of Clark Engineering LLC represented the applicant; the Commission was in receipt of a narrative dated March 13, 2008 from David McSweeney, Esq., representing Sage Group and a revised plan from Clark Engineering LLC dated January 10, 2006 revised March 14, 2008.

Mr. Clark stated that footpaths are an exempt activity under the Rivers Act as long as they don't go through a Bordering Vegetated Wetland (BVW). The pathway will not cross the perennial stream shown on the plan. In his narrative and in person, Mr. McSweeney re-iterated that the proposed unpaved pervious walking path is a minor activity and benign in terms of environmental impacts. The sole purpose of the creation of the pathway is to provide access to the water.

In a letter dated March 17, 2007 and through his attorney Mr. Angelini, abutters Peter and Leslie Bovenzi objected to the proposal because it is too close to the perennial stream. Additionally, they felt that the applicant should seek to secure an easement outside the 200-ft Riverfront Area.

The proposal will require a Special Permit from the ZBA; **the Conservation hearing was continued to May 21, 2008.**

149 Deep Hole Road, Gary Terry, SE 10-2294:The hearing was re-opened for an NOI for the proposed demolition of two cottages and proposed construction of a new dwelling, guesthouse and Title 5 subsurface sewage disposal system at 149 Deep Hole Road. David Clark of Clark Engineering LLC represented the applicant. Commissioner Paul Chamberlin recused himself from the hearing. The Commissioners were in receipt of revised plans showing the following changes:

- ✦ Elimination of the connector deck
- ✦ Reduction in garage size
- ✦ A reduction in the number of proposed bedrooms which will also result in a smaller leaching system. This will eliminate the need to remove two large oak trees

- ✦ A drainage swale on the western side of the new driveway
- ✦ Mitigation area on the south side of the proposed guesthouse

Mr. Clark noted that the new stakes will be in place by April 2. From the audience, abutter Paul Chamberlin wished to be assured that although the driveway out to Fairview Avenue is in place, construction vehicles will access the site from Deep Hole Road. It would be helpful if there was some sort of physical barrier on the construction site to prevent trucks using Fairview Avenue.

The proposal was withdrawn from ZBA on March 6, 2008; the application is scheduled to be re-heard by the ZBA. **The Conservation hearing was continued to April 2, 2008.**

10 Sedge Lane, Hill & Dale Nominee Trust, Sandra Glass-owner; Scott Glass-applicant, SE 10-2408: The hearing was re-opened for an NOI for the proposed shorefront mitigation at 10 Sedge Lane. Mark Burgess of Coastal Engineering represented the applicant and reviewed several photographs of the Glass and Gregorian properties taken in 1993, 2004 and February and March of 2008.

Mr. Burgess stated during Hurricane Noel there was a substantial amount of sand lost from the beach in front of Glass property, as shown in the photographs from 2008. The coastal bank is beginning to show signs of increased erosion of the landform and the vegetation that was present on the bank in 1993 is gone. The Commission noted that a fiber roll installation at the Schaller property installed approximately 1994-95 shows little signs of stress over 10 years later, in the photos from 2008.

The Content of a narrative entitled “*Supplemental Information as Requested*” and dated March 12, 2008 was reviewed.

The Commission expressed concern that there has been no effort to maintain the fiber rolls erosion controls previously approved with beach nourishment and vegetation. In response, Mr. Burgess stated that the applicant feels that his money would be better spent with a more permanent solution, such as a rock revetment.

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

27 Stage Neck Road & Battlefield Road, Edward Hibben-applicant, Julia/Edward Hibben-owners, SE 10-2407: The hearing was re-opened for an NOI for the proposed construction of a gravel driveway at 27 Stage Neck Road & Battlefield Road. David Lyttle of Ryder & Wilcox Inc and William Riley, Esquire represented the applicant. Mr. Lyttle submitted his observations on the isolated wetland. He stated that the wetland did not appear to be a vernal pool since there was no evidence of standing water during the time period he supplied data for. He asked that the Commission accept his observations that the isolated wetland is not a vernal pool. Ms Andres questioned whether one rain event is enough to determine whether the isolated wetland is a vernal pool; the area is recovering from a drought period in 2007.

The Chairman stated that the larger issue to be determined is whether a driveway, which is considered an accessory structure to a dwelling, should be constructed in the AURA to the isolated wetland before construction plans for the house have been submitted for review. The removal of habitat within a resource area before it is necessary to do so is controversial for the Commission. It was also questioned whether the future house could be sited elsewhere on the lot, making the proposed driveway obsolete or unnecessary.

Mr. Lyttle questioned whether the Commission would issue an Order of Conditions with a condition that the proposed driveway would not be constructed until such time as a dwelling is proposed. Mr. Riley stated that he felt there has been an erosion of property rights but that they will seek out the services of a wetlands specialist in an effort to cooperate with the Commission.

The hearing was continued to April 16, 2008.

87 Mooncussers Lane, Robin Hess Comfort, SE 10-2366: The hearing was re-opened for an NOI for the proposed construction of sunroom addition and deck; proposed construction of detached garage/studio and connection to an existing septic system; proposed re-routing of water line and proposed expansion of an existing driveway at 87 Mooncussers Lane. The proposal had been approved by the ZBA on March 13, 2008; **it was moved, seconded and voted to close the hearing.**

16 Cranberry Lane, William/ Joanne Crane-applicants, Cranberry Lane Nominee Trust-owner, SE 10-2406: The hearing was re-opened for an NOI for the proposed removal of existing garage & breezeway; proposed construction of addition and renovations; proposed installation of new septic system and abandonment of old system; and proposed construction of new driveway and abandonment of existing driveway at 16 Cranberry Lane. William Riley, Esquire represented the applicant; the proposal was continued on ZBA agenda to April 10; **the Conservation hearing was continued to April 16, 2008.**

North Beach, Shea Camp: Ms Andres is in receipt of a letter from William Riley, Esq. dated March 18, 2008 requesting a permit to move the camp on North Beach. The most recent Eldredge plan illustrates the current camp locations and the eroding shore line. Gary Sylvester of Falmouth will be completing the work and Mr. Riley assured the Commission that the requests for Shea and Coppedge/Fuller will be followed up by Notices of Intent.

112 Salt Marsh Way: Landscape Designer David Hawk would like to trim pine trees and remove some that are leaning or dead at 112 Salt Marsh Way. Photographs were circulated; The Commission agreed that the work could proceed under the supervision of the Conservation Agent.

103 Wapoos Trail, Brown: Ms Andres reported that Mr. George has refused to send a letter acknowledging the agreement to forego the planting of trees on the George property and allow Mr. Brown to plant trees on his own property. Ms Andres reported that Mr. George is afraid that the view from his property will be impacted by the new plantings.

Stello dock: The Stellos have appealed the Commission's denial of a dock in the Mill Pond. Ms Andres received a new plan proposing the location of the float outside the eelgrass area.

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

Respectfully submitted,
Mary Fougere, Secretary