

MINUTES March 5, 2008

The Annex 261 George Ryder Road

6:30 PM Special Hearing 7:00 PM Hearings & Continued Hearings

A quorum was present. Those in attendance included Paul Chamberlin, Carol Scott, Jay Putnam, Nat Mason, Richard Woodward (7:00 PM) Associate Members Ira Seldin and Billie Bates, Conservation Agent Kristin Andres and Secretary Mary Fougere. Commissioners Corinne Johnson and Eric Hilbert and Associate Member Joseph Manteiga were absent.

103 Wapoos Trail- Mark Brown was present to update the Commission on the status of the estimates he has received for planting of trees to restore the area where trees were cut without a wetlands permit. Christopher Ward, Esquire from LaTanzi Spaulding & Landreth represented Mr George.

After several telephone discussions with both Mr George and Mr Brown, Ms Andres offered a summary of the conversations. Most recently, Mr Brown has obtained bids from Seth Wilkinson and from Luciano and Son, which he submitted to the Commission for their approval. Both bids were approximately \$11, 400-\$5600.00 respectively.

In response to questioning from Mr Brown as to the reason why Mr George was unhappy with the previous bid from Seacoast Landscaping, Mr Ward stated that Mr George was unfamiliar with Seacoast Landscaping and did not want to allow them on his property to perform the planting work. Mr George was unhappy with the caliber of trees proposed and he expressed concern regarding the quality of the company. Additionally, since the property is for sale, the three year maintenance plan would be a cloud on the title and he wanted to be assured that the viability of the trees would be guaranteed. In a letter dated March 4, 2008, Ms Andres conveyed to Mr Brown that Mr George's property is for sale and he is readying the property for the spring 2008 market. Mr George had expressed to Ms Andres that Bartlett Tree Experts, Ponderosa Landscaping and Seth Wilkinson of Wilkinson Ecological Design were acceptable contractors.

Mr Ward stated that Mr George would be happy to remove the planting from his property assuming that restoration plantings on the Brown property will not obstruct the view from his dwelling. Although there is a chain link fence surrounding the George property, the actual location of the property line is not known.

After discussion and comparison of the two new estimates, the Commission agreed that

- A site plan would be necessary
- The deadline for planting would remain at April 15, 2008
- A performance bond representative of market cost would be required from Mr Brown
- The judgement of survival of trees is dependent on Commission approval
- Ms Andres would meet with the contractor to choose an appropriate site on the Brown property for planting
- Access for the planting equipment to the Brown property would be determined on site with Ms Andres & the contractor

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It was moved and seconded to have Mr Brown do the restitution planting on his property at 127 Wapoos Trail and that the bond amount to be held in escrow would be \$10,000, both to be accomplished by April 15, 2008. The vote was unanimous for approval. Mr Ward assured the Commission that Mr George would approve of the decision.

It was moved, seconded and voted to set a maturity date for the performance bond at April 15, 2011. An Enforcement Order was signed.

The following hearings were continued as noted:

- **160 (Lot 3) Crow's Pond Rd, Richard/Judith Morrissey, SE 10-2203:** continued to March 19, 2008
- **80 Bridge Street, Stage Harbor Marine, Andrew Meincke, SE 10-2401:** Continued indefinitely
- **185 Balfour Lane, Edward H Wohl, SE 10-2353:** Continued to April 2, 2008
- **149 Deep Hole Road, Gary Terry, SE 10-2294:** Continued to March 19, 2008
- **59 Barcliff Avenue, Leslie Borkowski, SE 10-2385:** Continued to March 19, 2008
- **24 Ryder's Cove Road, Sean & Rosarie Summers, SE 10-2339:** Continued to March 19, 2008
- **75 Holway Street, Robert Barsamian, SE 10-1693:** Continued to May 21, 2008
- **10 Sedge Lane, Hill & Dale Nominee Trust, Sandra Glass-owner; Scott Glass-applicant, SE 10-2408:** Continued to March 19, 2008

105 Chatham Crest Drive, Richard Allen: The hearing was opened for a Request for Determination of Applicability (RDA) for the proposed construction of 12-ft x 20-ft addition on sono tubes supports at 105 Chatham Crest Drive. Builder Anthony Compton represented the applicant and returned the abutter notification cards. There will be no foundation under the small addition; when completed the dwelling will be approximately 65 from the tree line (which delineates the flood plain contour). The flood plain on this lot is elevation 10.0. There is a wetland further away from the proposed work. The Chairman questioned whether the driveway would have to be expanded closer to the resource area to accommodate the addition.

Commissioner Scott noted that there were a lot of walls, a deck and plantings that were not reflected on the site plan. The applicants stated that the walls and plantings were completed years ago; there were some restoration plantings that had been put in about six years ago around the driveway area but there were no plans to expand the driveway.

It was moved, seconded and voted for a Negative Determination with the understanding that the site plan would be updated and submitted to the Commission and that any debris and brush that had been dumped in wetland resource areas be cleaned up.

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108 Queen Anne Road, Linda Smith: The hearing was opened for an RDA for the proposed reconstruction and construction of an addition to an existing deck at 108 Queen Anne Rd. The applicant was present and returned the abutter notification cards. The deck would be expanded by 27 sq ft and the footings will be re-done to assure that the additional weight will be managed. The deck is a second-story structure; there will be no change to the footprint.

Abutter John Snyder wrote in support of the proposal.

The proposal is scheduled on ZBA agenda for April 24, 2008; **it was moved, seconded and voted for a Negative Determination.**

14 Rowland Drive, Dana Eilers: The hearing was opened for an RDA for the proposed construction of an addition to an existing single family dwelling at 14 Rowland Dr. David Lyttle of Ryder & Wilcox, Inc and William Riley, Esquire represented the applicant. Mr Lyttle returned the abutter notification cards. The 24 ft x 10 addition will allow the existing dwelling to be handicapped accessible. The property is within the 100 ft AURA to the top of the coastal bank to a salt water wetland; the dwelling is located across a paved roadway.

Mr Lyttle circulated revised plans showing the deck on the southerly side of the dwelling(over an existing patio) and three handicapped ramps that did not appear on the plans previously supplied to the Commission. A portion of the house addition in the rear of the house is outside the jurisdiction of the Commission.

There will be no change in the number of bedrooms and no increased stormwater run-off from the proposal. A large tree near the existing shed will be removed for the construction of the addition.

Abutter David Simpson expressed his concern regarding the parking of construction vehicles on Orelans Rd and Rowland Drive during the construction process.

The proposal will require a Special Permit from ZBA; **it was moved, seconded and voted for a Negative Determination.**

34 Diane Drive, Philip Reid/ Barbara Buffa, SE 10-2328: The hearing was opened for a proposed request to Amend an existing Order under SE 10-2328 to include onstruction of a travertine patio and walkway to the rear of the house at 34 Diane Drive. Philip Reed was present and stated that the sunroom/porch construction has been completed and they are ready for final landscaping. Brandon Sackett of Architects Studio was present to review the details of the patio construction. The total square footage of the patio is 260 sq ft; additional mitigation has been provided for the patio and combined with the mitigation for the previous work, 450 sq ft of mitigation plantings are proposed.

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The patio is within the outer AURA to the wetland to the north but is within the resource area (Flood Plain) and will require additional mitigation planting that will be allowed to naturalize. The Commission would like to see 2:1 mitigation for increased permanent disturbance in the resource area. Ms Buffa noted that there is limited backyard space to the north due to the paper road (Stoughton) Drive. Commissioner Scott suggested the northern property line could be used as an area for mitigation without crossing over into the roadway.

A large oak would remain on the southern property line. The Commission agreed that a revised plan would be necessary showing all the proposed mitigation; however the applicant could begin work on the already approved mitigation areas. The Commission questioned whether there had been dumping of yard debris onto Stoughton Drive; Ms Buffa acknowledged that they had only used the area to store two large plants that had been uprooted from their yard during construction. Ms Buffa stated that in the near future she would like to remove the invasive Autumn Olive from the Forbes side of the property. The Commission agreed that the removal of invasives could be added to this filing.

In a letter, abutter Maureen Forbes expressed her concern regarding increased stormwater run-off onto her property should fill be added to the Reed/Buffa property to complete this project.

The hearing was continued to March 12, 2008 for receipt of a revised landscape plan.

72(Lot 85) SeaMist Lane, BBW, LLC, E 10-2409: The hearing was re- opened for a Notice of Intent (NOI) for proposed removal of vegetation for view; proposed re-vegetation with indigenous plant species at 72 Sea Mist Lane. Commissioner Jay Putnam was recused from the hearing. Craig Borden represented the applicants along with William Riley, Esquire. Mr Riley stated that currently the property is for sale and the prospective buyers have been put off by the lack of water view. An on-site meeting with Commission members had been held in the morning of March 5; at the on-site the applicants and the Commission identified a corridor where the applicants could achieve a view window through tree cutting and limbing of branches. The applicants will also plant low understory, native bayberry and blueberry in areas where trees will be cut. Once the trees are leafed out, the applicants would like the Commission to re-consider the proposal, if necessary, to maximize the view.

Mr Borden will identify the trees and limbs to be cut with orange tape so that the contractor and Ms Andres can identify the specific areas to be cleared, prior to the commencement of work. Discussion ensued regarding the wording of a management/maintenance clause when the Order of Conditions is written.

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

105 Palmer Drive, Draper-Mackay Nominee Trust Broom Hill, Judith Mackay,

Trustee, SE 10- The hearing was opened for an NOI for the proposed construction of a garage addition and driveway at 105 Palmer Drive. David Clark of Clark Engineering LLC and William Riley, Esquire represented the applicant; Mr Clark returned the abutter notification cards. The applicant has proposed the construction of a one car garage addition, 282 sq ft, within the No-Disturb Zone (NDZ) to an isolated wetland. The proposal has been designed to mesh with the existing interior design of the dwelling. Also proposed is a new driveway to access the new garage and a second story deck. As mitigation for the increased permanent disturbance in the NDZ, the applicant has proposed 667 sq ft of native plantings that will be installed to augment the existing vegetation. This vegetation will be allowed to naturalize. The driveway will be constructed with Geo Blocks, a pervious surface that allows grass to grow between the blocks. Once established, the driveway will look similar to the existing Cape Cod lawn. The applicant only uses the house a few weeks a year.

Mr Riley stated that the septic system is on the other side of the house and would prevent the construction of the garage elsewhere on the lot. Carol Scott stated that currently the entire side yard is cleared and planted with beautiful rhododendron and other ornamentals within the resource area and the mulched area is right to the edge of the water. According to Mr Riley, the back yard has been that way for many years since the applicant's parents were ardent horticulturalists. He felt that the proposal is modest in nature and is on an already disturbed lot.

It was noted that there are two drainage structures , one in the road and one almost in front of the proposed driveway. Mr Clark felt that they were probably installed by the Town when the road was taken over by the town.

The Commission felt that the existing 200 +/- sq ft of disturbance in the NDZ is going to be increased to 1000 +sq ft of disturbance, when there may be other alternatives for the site. Mr Riley offered to make the driveway more pervious by eliminating the GeoBlock and simplifying the driveway design. Any other changes including re-locating the garage and septic system are much too costly for the applicant.

From the audience, Karen Loveland spoke against the development of the property. Abutter John Bayne spoke about what he felt was a flooding problem in the old bog as a result of a clogged drain. He felt that the sitting water in the bog may be affecting the proposal on the Draper-Mackay lot. Abutter Eric Fahle questioned how the existing catch basin would be integrated into the driveway and he expressed that he expected some more construction details during the hearing process and offered suggestions for the restoration areas.

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The applicants would revise the mitigation plan to reflect the concerns of the Commission. The hearing was continued to April 2, 2008.

Lot 14 Plum Daffy Lane, Plum Daffy Nominee Trust, Nicholas Mason, Trustee-owner, Anne/Brian Truesdale-applicants: The hearing was opened for the proposed construction of a single family dwelling at Lot 14 Plum Daffy Lane. Commissioner Nat Mason recused himself from the hearing. The applicants were represented by David Clark of Clark Engineering LLC who returned the abutter notification cards. Also representing the applicants were Shawn Pappedge and Sally Weston. A single family dwelling is proposed in the outer AURA to a coastal bank. About 37 percent of the outer AURA will be permanently disturbed with dwelling and hardscape. All utilities are shown on the plan, the plan will be presented to the Board of Health (BOH) on March 10, 2008 to seek approval for IA technology to increase the number of bedrooms to a total of five.

The Commission had approved the wetland delineation through a filing in November of 2007 which is valid for three years. After some discussion, it was agreed that the top of the bank is the top of the revetment on this lot. On this lot, the first 50 ft of the commission's jurisdiction is a steep slope down to the revetment, there is only about 5-ft of flat land coming up from the revetment so there is an observable break above the flood plain contour, elevation 11.0. From the audience, William Litchfield, Esq agreed that the Commission had approved the wetland delineation in November.

The Commission expressed concern at the amount of development in the 50-100 ft AURA. It was noted that the pool could be moved back since the pool was unreasonably close to the slope. Due to the proposed location of the pool, the lot will be cleared from northern to the southern lot line. The large stone terrace around the pool area seemed extensive. Mr Clark stated that a large wildlife corridor (70-ft) will be left on site and will not be cleared. Overall- Mr Clark felt that the applicant had made a conscious effort to restrict the amount of development and has kept the development to < 40% of the outer AURA. The Landscape architect stated that the development of the pool area is for gathering places, and to take advantage of the view, however the usage of the area will be passive in nature. A low seat wall is also proposed near the pool. There is some room for consideration of reduction, although there are erosion control plantings proposed along the already heavily vegetated slope.

The Commission would like a revised plan showing the following:

- The location of large trees on the lot
- Reduction in hardscape and relocation of the pool
- Tightening the Limit of work on the eastern side of the property
- Location of pool fence and location of proposed yard fence
- Accurate calculations of permanent disturbance

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Mr Truesdale noted that the garage with living space will not be constructed at this time; the Chairman noted that the garage and the installation of the septic system and driveway were outside the jurisdiction of the Commission.

The hearing was continued to April 2, 2008.

Lot 106 Stage Island Road, DMD Properties, LLC: The hearing was opened for an NOI for the proposed construction of a single family dwelling and proposed mitigation planting at Lot 106 Stage Island Road. David Clark of Clark Engineering LLC represented the applicant and returned the abutter notification cards. He stated that the lot is affected by several resource areas which include Land Subject to Coastal Storm Flowage, setbacks to the coastal bank associated with Stage Harbor and an isolated wetland, as defined under the local bylaw. The isolated wetland was flagged by Don Schall of ENSR; his report dated February 13, 2008 was submitted with the application. The Commission noted that isolated wetlands are presumed to be vernal pools unless the applicant has proven otherwise. The Chairman also felt that there was a coastal bank as defined under the local regulations in which a coastal bank is defined by elevated landforms.

The health department has reviewed the septic system proposal . The system will meet the state regulations but not the local regulations and the health department has deferred their decision until after the Commission has had a chance to review the proposal.. The septic proposed will contain both IA technology and UV disinfecting system which Mr Clark felt will compensate for the septic variances that are necessary.

Rob Calderaro of Gregory Lombardi designs reviewed the landscape plan submitted with the application. He noted that the existing boathouse will be removed and the Commission questioned the possibility of using the existing pilings for the new proposal. He presented colorized plans showing proposed mitigation and comparisons of the existing disturbance vs the proposed disturbance in the resource area. The applicant has requested that the Commission consider the use of off-site mitigation since he is the immediate abutter to Lot 106. The Commission questioned whether the federal government had approved the mitigation that is proposed on their property.

From the audience, abutter John DaSilva expressed his approval of the project.

Ms Andres stated that there has been a question regarding the siting of the new dwelling with respect to the lot lines established in 1963 from Chief Zoning Officer Kevin McDonald, in a letter dated March 3, 2008.

The hearing was continued to April 16, 2008 for revised plans showing the following

- **Confirmation of the resource areas**
- **Design of the septic system**

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- **Reduction in size of the proposed dwelling**

Pcls M3 & M2 Hardings Beach Road, Kenneth Mulvaney-applicant, Heirs of Charlotte Mulvaney-owner, SE 10-2400: The hearing was re-opened for an NOI for the proposed construction of a single family dwelling at Pcls M3 & M2 Hardings Beach Road. Terry Eldredge had supplied revised plans to the Commission; **the hearing was continued to April 2, 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. No one was present for the applicant. It was noted that the proposal is scheduled on the ZBA agenda for March 13, 2008; **the Conservation hearing was continued to March 19, 2008.**

87 Mooncussers Lane, Comfort, SE 10-2366: The Zoning Board of Appeals had requested comment on the proposal. The Commission has reviewed the Ryder & Wilcox plan dated August 2, 2007, revised November 12, 2007 for the proposed construction of a detached garage/studio and the proposed addition of a sunporch to an existing dwelling at the above address. The proposed garage/studio is to be connected to the existing sewage and water lines and the existing pervious driveway is to be extended.

The proposed work will occur in the outer 50-ft Adjacent Upland Resource Area (AURA) to a Coastal Bank, Salt Marsh and Coastal Flood Zone, el 9.0. The proposed sun porch is to be located in the area of an existing deck (to be removed and relocated to the west) and will be constructed on hand dug sono tubes. The proposed garage/studio has been sited to avoid removal of several large trees. Removal of native shrub vegetation within the AURA will be minimal, mostly in the area of the re-routed water line and will be restored with native plantings.

The Commission finds that the project can be conditioned to minimize any adverse impact to the adjacent wetland resource areas.

79 Harding Lane, Gilbert Upson, SE 10-2394: The hearing was re-opened for an NOI for the proposed construction of an elevated stairway and landings at 79 Harding Lane. William Riley, Esquire represented the applicant; he stated that the application had been denied by the ZBA on January 10, 2008 and that **the application in front of the Commission should be withdrawn as well.**

79 Barcliff Avenue, Minglewood Homes-applicant, John/Elizabeth Gardner-owners, SE 10-2384: The hearing was re-opened for an NOI for the proposed view pruning & maintenance of 4-ft wide pathway; proposed renovation to an existing boathouse, including foundation replacement where required at 79 Barcliff Avenue. David Clark and

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William Riley, Esquire represented the applicant. The Chairman suggested a compromise that would allow the applicant access to the water without without the construction of a foundation in the wetland.

There are existing beams laying on the substrate of the pond; perhaps the applicant would consider constructing a catwalk in the footprint of the beams with a landing at the end of the catwalk. Mr Clark would speak with the applicant and consider the Chairman's proposal. **The hearing was continued to April 2, 2008.**

94 Juniper Lane West, Gilbert Wilson /Margaret Wilson-Grey, SE 10-2402: The hearing was re-opened for an NOI for the proposed relocation of existing pier within Taylor's Pond at 94 Juniper Lane West. David Clark was present for the applicant; the proposal had been approved at ZBA on February 14, 2008. **It was moved, seconded and voted to close the hearing.**

149 Deep Hole Road, Terry, SE 10-2294: David Clark of Clark Engineering LLC questioned whether the Commission would consider writing a more favorable letter to the ZBA for the upcoming hearing. Chairman Paul Chamberlin recused himself from the hearing. The comment letter written by Commissioner Putnam was read; the Commission agreed that they had addressed the latest proposal by the applicant to construct a drainage swale to facilitate stormwater run-off from the new driveway off of Fairview Avenue

262 Stage Neck Road, Minglewood, SE 10-2307; A Certificate of Compliance was signed for the completion of the stairs at 262 Stage Neck Rd.

Reminder: The Pleasant Bay Alliance will be reviewing the Pleasant Bay Management Plan at a public meeting on March 6, 2008 at the Brewster Town Hall.

Emergency Request: William Riley, Esquire had provided the Commission with a letter dated March 5, 2008 requesting an Emergency Certification for work involving the proposed moving of the Fuller/Coppedge camp to the Hammatt lot on North Beach.

The Fuller camp is at the southernmost end of North Beach and is in imminent danger of being destroyed by the waters of the Atlantic Ocean. The camp would be temporarily re-located by machinery using the existing roadway to the Hammatt camp lot, currently not endangered by flood waters. The applicants would like to begin the work on March 7, 2008 and will notify all the property authorities prior to commencement of work. It was moved, seconded and voted to issue the Emergency Certification for the moving of the camp to avoid collateral storm damage and to protect public health and safety.

66 Rush Drive: the homeowner would like to remove three large trees (one of which is dead) in close proximity to the house. The Commission agreed that the proposal could proceed under an Administrative Review; the property owners will be filing an application for additional work in the near future.

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Landscaper Workshop: The Commissioners were pleased with the success of the initial workshop session held February 28, 2008. Approximately 40 contractors and/or landscapers attended and offered positive feedback to Ms Andres. There was interest in attending further informational workshops in the future.

Adjournment: It was moved, seconded and voted to adjourn the meeting at 10:30 PM.

Respectfully submitted,
Mary Fougere, Secretary