

A quorum was present. Those in attendance included Paul Chamberlin, Jay Putnam, Nat Mason, Corinne Johnson, Carol Scott, Eric Hilbert, Conservation Agent Kristin Andres and Secretary Mary Fougere. Associate Members Ira Seldin and Billie Bates were absent.

41 Marsh View Road, David/Susan Epstein: The hearing was re-opened for a Request for Determination of Applicability (RDA) for the after the fact filing for “as built” addition and proposed construction of screened porch and deck, drive, walkway and planting at 41 Marsh View Road. No one represented the applicant; it was noted by the chair that the ZBA had granted a Special Permit. **It was moved, seconded and voted for a Negative Determination with the condition that the applicant plant native species on the site as mitigation.**

286 Shore Road & Claflin Landing, Chatham Barr Inn-applicant, CBI PC LLC-owner, SE 10-2433: The hearing was re-opened for an (NOI) Notice of Intent for the proposed seasonal observation decks/shelters/walkways & beach maintenance at 286 Shore Road & Claflin Landing. Sean Riley of Coastal Engineering Company Inc represented the applicant. He had submitted a Beach Cleanup and Maintenance Plan showing the extent of proposed beach maintenance involving both the CBI property and the adjacent Ludwig property.

The Commission questioned whether the raking would have to extend all the way to the western sand fence line. Mr Riley agreed to remove the Ludwig private property from the proposal and keep the raking to once a week, as stated in the plan dated May 8, 2008.

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

Mill Pond off Dusty Miller Lane and Mill Farm Lane, Chatham Water Department – applicant, Town of Chatham –owner, SE 10: The hearing was re-opened for an NOI for the receipt of a file number from DEP for proposed installation of observation well associated with proposed town water supply well at Mill Pond off Dusty Miller Lane and Mill Farm Lane, Assessors Map 3G parcel ND1. There has been no file number issued by DEP; **it was moved, seconded and voted to continue the hearing until June 4, 2008.**

159 Tide Mill Lane, Robert/Jennifer Stello, CWP08-107N: The hearing was re-opened for an NOI for the proposed vista pruning and maintenance, proposed pervious patio, access path and timber access stairs and proposed seasonal catwalk, pier, ramp and float at 159 Tide Mill Lane. William Riley, Esquire and Mark Burgess of Coastal Engineering Company Inc represented the applicant. Three copies of a revised plan dated May 23, 2008 were provided; the plan was revised to show spot elevations as requested at the May 21, 2008 meeting.

Mr. Riley confirmed that the Commission was in receipt of a letter from the Division of Fisheries and Wildlife dated May 21, 2008, NHESP. The contents of the letter were summarized and entered into the record. Under the Wetlands Protection Act (WPA) , NHESP wrote that the project will not adversely affect the actual Resource Area Habitat of state-protected rare wildlife species. Under the Massachusetts Endangered Species Act (MESA), NHESP has determined that the project, as currently proposed, will not result in a prohibited

“take” of state listed rare species. Both determinations address only the matter of rare wildlife habitat and state listed species and their habitats. The determination does not pertain to other wildlife habitat issues that may be pertinent to the proposed project.

The spot elevations in the area of the float were shown on the plan; when doing the spot elevations Mr Burgess noticed that the -2.5 MLW was off by 6 inches of elevation ; this was adjusted to -3 +/- in the new plan, therefore the plan shows that there is more depth of water at the float end than is required. The Chair questioned whether the pier could then be shortened. Mr Riley stated that the Zoning Board of Appeals has already approved the length of the pier in deeper water than is mandated by the Zoning Bylaw. However if shortening the pier was a condition of approval from the Commission so that the landward side of the float was closer to the 2-1/2 ft depth of water, then the applicant would accept shortening the length of the pier.

Commissioner Jay Putnam questioned why the actual spot elevations were not shown at the MHW line as well. Mr Riley claimed that the Commission only requested the spot grades in the area of the float, therefore no elevations were shown for MHW. Mr Burgess stated that the MHW location was checked with benchmarks from the NGS benchmarks along Bridge St. The tidal ranges were also checked. Mr Putnam questioned the engineer’s statement that MHW was determined by vegetation and not by elevation so why check against the benchmark. Jay noted MHW goes from < 2-ft to almost 4.0 ft. The plan shows almost a 2-ft difference in elevation from west to east along the MHW line, which should be a relatively level line. Mr Burgess stated that, in general, nature puts the edge of vegetation line within 2/10 of a foot, about 3”.

Mr Riley said that the Conservation Commission should have raised this question . Others felt Mr Putnam had and Mr Putnam maintained he had asked for the spot elevations. Mr Riley reiterated that this is not a relevant issue because the MHW mark is only used by Zoning to determine the length of the pier, it is not germane to this hearing because it doesn’t matter where the MHW mark is for Conservation purposes. MHW wanders around on this site.

Commissioner Mason felt that this was germane since MHW location and the 80-ft pier length restriction under Zoning would determine the location of the pier and its extension into the shellfish areas; shellfish habitat and the effects of prop scouring on the shellfish beds is a concern of the Conservation Commission. Commissioner Putnam noted that he discussed this issue during the first hearing on May 21, 2008 and had requested the information.

Letters opposed to the proposal were read into the record from the following:

- * Martha Stone, dated May 27, 2008
- * Eunice Burley, letter dated May 28, 2008- Mr Riley interjected remarks
- * Norman Pacun, letter dated May 27, 2008
- * Division of Marine Fisheries, letter dated May 1, 2008
- * Byrd Schlessinger, letter dated May 27, 2008
- * Noah Fleischmann, letter dated May 27, 2008- Mr Riley interjected remarks
- * Lorna Mack, letter with fax date May 27, 2008

- * Everett Yeaw /Carolyn Coursen, letter dated May 28, 2008
- * Carey Weber, letter dated May 27, 2008
- * Lorna/Barry Sheridan, letter dated May 27, 2008

Commissioner Scott stated that the Stello family has two moorings in the Mill Pond and therefore had access to the water. From the audience, Martha Stone referenced the letter she submitted for the record, noting that it had been signed by several citizens. She urged the Commissioner to support the Chatham Shellfish Constable.

Mr. Riley stated that (Shellfish Constable) Mr. Moore has an “ax to grind” in protecting the bottom area for longrakers; Mr. Riley said there are no longrakers that use this portion of the Mill Pond.

From the audience, Michael Stello, brother of the applicant, felt that Mr. Moore had grossly misled the public regarding the use of the Mill Pond by longraker shell fishermen. He stated that there has never been longraking in this corner of the Mill Pond, although the area has been seeded. He also stated that the problem in Chatham is the increase in moorings and boats, not so much limiting this area by this dock.

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

Holway Street, Town of Chatham, SE 10-2457: The hearing was re-opened for an NOI for the receipt of a file number from DEP for proposed maintenance of existing, licensed revetment at Holway Street. A file number had been received; **it was moved, seconded and voted to close the hearing.**

720 Orleans Road, Edwards Angell Palmer & Dodge, LLP, Mary Ellen Rogan, Esquire-applicant, June Lauzon Realty Trust-owner, SE 10-2454: The hearing was re-opened for an NOI for the receipt of a file number from DEP for proposed installation of Title 5 septic tank and pump chamber at 720 Orleans Road. A file number had been received; **it was moved, seconded and voted to close the hearing.**

82 Uncle Albert’s Drive Extension, Sage Group LLC, SE 10-2200: The hearing was re-opened for an NOI for the 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 and reviewed revised plans showing the proposed pathway ending at the water. The previous plan had shown the end of the path at the edge of clearing, but the path actually will end at the water’s edge. The revised plan also shows the pathway starting on the owner’s property near the driveway, as opposed to beginning at the roadway. **It was moved, seconded and voted to close the hearing.**

75 Holway St, Barsamian, SE 10-2337: The Zoning Board of Appeals (ZBA) had requested comment on the proposal at 75 Holway St. William Litchfield, Esquire circulated a letter and asked that the Commission review the information prior to issuing their comment letter.

The Chair explained that the hearing for Holway St had been continued at a public session to June 18 and the newly submitted letter would be read into the record at that time. For purposes of writing to ZBA, the letter could not be considered.

The Commission has reviewed the Hawk Design, Inc landscape plan dated March 24, 2008, revised May 14, 2008 proposing the following changes from the previously approved Landscape Plan dated May 21, 2007:

- ✦ Construction of a 15-ft x 20-ft deck on the east side of the dwelling
- ✦ Enlargement of the entrance deck on the west side of the dwelling
- ✦ Construction of a privacy fence and arched arbor
- ✦ Enlargement of the proposed pervious driveway to provide turn-around spaces and
- ✦ Substitution of native shrub vegetation for previously proposed lawn and beach grass areas

All proposed work is within 100-ft of the top of a revetted Coastal Bank and within the 100 year Coastal Flood Plain.

Although the Commission finds that the substitution of native shrubs for proposed grass areas may be appropriate for this site, we are concerned about the proposed 450 sq foot increase in non-vegetated areas. Given that the easterly exit from the dwelling (double slider doors) requires an appropriate platform and stairway down to grade, the Commission nevertheless believes that a 15-ft x 20-ft deck in this area is excessive and would prefer that it is reduced in size.

With an appropriate reduction in the size of the easterly deck and elevation of the privacy fence 6 inches above grade to allow for wildlife and flood water movement, the Commission finds that this project can be conditioned to minimize adverse impact to the Coastal Flood Plain.

65 Edgewater Drive, Hamill, SE 10-2431: The Zba had requested comment on the proposal at 65 Edgewater Drive. The Commission has reviewed the Clark Engineering plan dated March 11, 2008, revised May 13, 2008 for the proposed construction of additions on the southwestern side of an existing dwelling at the above address.

All proposed work is within the 50-No- Disturb Zone (NDZ) to the top of a sandbag revetted Coastal Bank and within the Coastal Floodplain. The proposed additions will be on FEMA compliant foundations and cover an area of 194 sq ft, a portion of which is currently occupied by a deck. The existing paved driveway will be removed and replaced with a pervious surface with the exception of a proposed granite apron fronting Edgewater Drive. The net result of the entire project will be a reduction of 131 Sq ft in site coverage.

As further mitigation for work in the floodplain, the applicant has offered to plant indigenous shrub species in a 3900 sq ft area of the property which abuts Conservation Foundation Land.

The Commission finds that this project can be conditioned to minimize further impact to the Coastal Flood Plain and the above referenced NDZ.

338 Bridge St, Cooper, SE 10- The ZBA had requested comment on the proposal at 338 Bridge St. The Commission has reviewed the Ryder & Wilcox, Inc plan dated January 7, 2008 for a proposed 1,164 sq ft addition on the south side of an existing dwelling at the above address.

A small portion of the proposed addition as well as all of the deck and driveway extension are in the outer 50-ft Adjacent Upland Resource Area (AURA) to a Coastal Flood Plain Zone, elevation 10.0 ft.

The proposed work area has been historically altered and little, if any, native vegetation will be removed. The Commission finds that this project can be conditioned to minimize the effect of additional alteration in the AURA on this site.

43 Holway St, Habib, SE 10-2249: The ZBA had requested comment on the proposal at 43 Holway St. The Commission noted that they have been asked to comment twice before and there is very little change from the proposal two years ago. The Commission has reviewed the Clark Engineering LLC plan dated March 19, 2008 for the proposed partial demolition of an existing dwelling and the construction of an addition on an expanded footprint.

The proposed work is within 100-ft of the coastal flood plain, elevation 10.0, and within 100-ft of a coastal bank to the south. The only work within the No Disturb Zone (NDZ) to the flood plain is the removal of an existing deck. The only disturbance to existing vegetation will be the removal of overgrown landscape plants which have been infiltrated with invasive plant species.

The Commission finds that the modest increase in building coverage in the outer adjacent upland resource area (AURA) to the floodplain and coastal bank is sufficiently mitigated by the removal of the deck from the NDZ.

The Commission believes that the project can be conditioned to avoid additional adverse impact to the adjacent resource areas.

34 Nickerson Lane, Sears, SE 10-2240: It was moved, seconded and voted to accept the Partial colorized site plan for the Amendment to an existing Order to include installation of irrigation at 34 Nickerson Lane. **Additional Special Conditions were written.**

23, 25 etc Linnell Ln, McAdams et al, SE 10-2428: It was moved, seconded and voted to approve the Ryder & Wilcox plan dated March 13, 2008 for the Re-building of the Linnell Lane Roadway. In response to questioning by the Commission, Ms Andres noted that the bylaw change allowing the re-grading of roadways will not be approved by the Attorney General until this summer. Director of Community Development Kevin McDonald noted that

the applicant could proceed at their own risk, should they decide to proceed prior to the approval. **An Order of Conditions was written.**

Lime Hill Rd, Buckley/Minot Acres, SE 10-2424: *It was moved, seconded and voted to approve the Eldredge Surveying and Engineering plan for roadway improvements along Lime Hill Road. The Commission agreed that a Clerk of the Works will be necessary for this project. An Order of Conditions was written.*

1107 Main St, Minot Acres/Edson, SE 10-2435: *It was moved, seconded and voted to accept the Eldredge Surveying and Engineering plans dated December 27, 2007 pages 1-4, for the Subdivision roadway & drainage at 1107 Main St. Dr Robert Duncanson has reviewed the Storm water report during the hearing process. An Order of Conditions was written.*

159 Tide Mill Lane, Robert/Jennifer Stello, CWP08-107N : Discussion ensued for the proposed vista pruning and maintenance, proposed pervious patio, access path and timber access stairs and proposed seasonal catwalk, pier, ramp and float at 159 Tide Mill Lane. The proposal has been filed under the local bylaw only. The Chair noted that the Commission could vote at this hearing on the project to avoid solicitation that had occurred in the past on this proposal. For discussion purposes, the Chair referenced Chapter 272 –Wetlands Protection adopted May 1997 ATM by Article 11 as Ch 37 of the 1997 Bylaws. The following sections of the bylaw were noted:

- * 272-1 Purpose” The purpose of this chapter is to protect the wetlands, related water resources and adjoining land areas in the Town by controlling activities deemed by the Conservation Commission (the Commission) to have an impact or cumulative effect upon wetland values, including but not limited to the following: public water supply, groundwater and groundwater quality, water quality in the numerous ponds of the Town, flood control, erosion and sedimentation control, storm damage prevention, prevention of water pollution, wildlife and wildlife habitat, fisheries, shellfish, aquaculture, marshland and eelgrass beds, marine and shoreline ecology, rare and endangered species habitat, including plant species, and passive recreational enjoyment of wetlands and adjoining wetlands (collectively protected by this chapter)
- * 272-2 Fisheries and/or Marine Fisheries, A –The fish and shellfish resource itself and B- The recreational or commercial catching of fish or shellfish from the ocean or from freshwater bodies
- * Part II of the Regulations , Regulations for Coastal Wetlands, pgs 41 and 42 beginning with the paragraph “ The Town of Chatham enjoys the benefit of the richest shellfish grounds in New England.” And including (2) -Definitions of “ Shellfish Habitat” “Shellfish” and (3) Performance Standards and (5)

Commissioner Scott stated that she will vote for denial of the project because the regulations should be upheld. She also felt that the South Coastal Harbor Management Plan must be considered and the Commission is not denying the applicant access to the water since he has already been granted moorings by the Harbormaster in the Mill Pond. She also noted that the applicant has presented information that longrakers do not use this particular corner of the Mill

Pond but during her site visit, there were shell fishermen in the Mill Pond and there are other types of fishermen who may be restricted by the proposed pier.

Commissioner Hilbert stated that he would uphold the bylaw and regulations and vote to deny the project.

Commissioner Johnson felt that even though this application is new, there is almost no change in the proposal from the previously denied project in 2007. She felt then, and now, that in order to respect the bylaw, she would vote for denial of the project.

Commissioner Putnam agreed with Commissioner Johnson that there was no new significant information submitted and he would vote to deny the project.

Commissioner Mason felt that the applicant proved that this spot would not have a negative impact on shell fishing and would vote for approval.

The Chair stated that although the applicant had produced some "Negative Evidence" to believe that the area in question would not interfere with commercial shell fishing, he could not ignore the memorandum from the Shellfish Constable Stuart Moore and the letter from the Shellfish Advisory Committee and the Harbor Committee, both committees made up of local citizens, addressing the cumulative impact of another pier in the public tide lands of the Mill Pond. The areas below mean high water was public property deserving special protection for all rather than use by one. He will vote for denial.

It was moved, and seconded to deny the application. The vote was five(5) in favor of the motion, one (1)against.

82 Uncle Alberts Drive Extension, Sage Group LLC, SE 10-2200: It was moved, seconded and voted to approve the Clark Engineering LLC plan dated May 28, 2008 (Not the revised plan dated March 14, 2008) for the footpath at 82 Uncle Albert's Drive. **An Order of Conditions was written.**

641 Crowell Road, Kiker, SE 10-2437: It was moved, seconded and voted to approve the Ryder & Wilcox plan dated May 19, 2008 for the installation of a swimming pool etc at 641 Crowell Road. **An Order of Conditions was written.**

27 Stage Neck Rd, Hibben, SE 10-2407: It was moved ,seconded and voted to review the Ryder & Wilcox plan dated December 17, 2008 revised January 2, 2008 for the construction of a driveway at 27 Stage Neck Road. **An Order of Conditions was written.**

60 Hammond Hill Rd, Young, SE 10-2429: It was moved, seconded and voted to review the Ryder & Wilcox plan dated March 10, 2008 for the project at 60 Hammond Hill Road. An Order of Conditions was written.

110 Old Salt Works, Goodrich Chatham Realty Trust, SE 10-2140: An Extension Order was signed for the work proposed under SE 10-2140 and the Amended Order under SE 10-2140.

47 Holway Street, Storey: The Commission reviewed the proposal to remove a fallen spruce tree at 47 Holway Street. The Commission agreed that the project could proceed under an Administrative Review.

Lot A Old Harbor Road, Hogan: The Commission reviewed the application to install fence posts as tie-ups for dinghies at the Lot A Old Harbor Road. The posts would be installed when the newly permitted beach nourishment project is complete. The Commission approved the proposal under an Administrative Review.

81 & 109 Misty Meadow Lane, Stuart Roffman, Trustee; Misty Meadow Ln Realty Trust: The Commission reviewed letters written by Ms Andres regarding newly discovered violations for clearing of wetland.

2 Salt Pond Road, Gerry Milden: The Commission reviewed the letter written by Ms Andres for the non-compliance with the existing Order of Conditions.

Resignation: Associate Commissioner Joseph Manteiga has resigned from the Commission, effective immediately.

1015 Orleans Road, Gadbois: The Commission signed an Enforcement Order to require the restoration plan for the area that was cleared without benefit of a valid wetlands permit.

34 Diane Drive, Buffa/Reed: The Commission would not issue a Certificate of Compliance for the landscaping work at 34 Diane Drive. There is a newly installed, un-permitted irrigation system in the Stoughton Lane roadway as well as plantings. Additionally the area is mulched. The Commission agreed that a letter will be sent to the owners requiring the removal of the irrigation system and the plantings that are in the roadway layout.

Adjournment: It was moved, seconded and voted to adjourn the meeting at 6:45 PM.

Respectfully submitted,
Mary Fougere