

MINUTES

Tuesday, March 21, 2017

4:00 pm

Oak Bluffs Conservation Commission
Oak Bluffs Town Hall

Members Present: Joan Hughes, Margaret Klugman, Ron Zentner, Penny Hinkle

Others Present: Doug Hoehn, Caleb Nicholson, John Tiernan, Steve Morris, George Sourati, Richard Johnson, Michael Sullivan, John Osmer, Geoghan Coogan, Dafna Gordon

Minutes of February 16, 2017 and February 28, 2017

A motion was made by Mr. Zentner and seconded by Ms. Klugman to approve the minutes of February 16, 2017. Ms. Klugman abstained and all others voted in favor.

A motion was made by Mr. Zentner and seconded by Ms. Klugman to approve the minutes of February 28, 2017. Ms. Klugman abstained and all others voted in favor.

Brooks – Request for Certificate of Compliance, 257 Barnes Road

Ms. Durkee stated that it appears the involved parties have agreed that the Brooks will provide the new owner with \$1,000 to purchase plants to replace the ones that failed to survive. She recommended that the Commission issue a partial Certificate of Compliance for all the work except the plantings. A motion was made by Mr. Zentner and seconded by Ms. Klugman to issue a partial Certificate for all work except the plantings with \$1,000 put in escrow or otherwise transferred between parties to cover the cost of new plantings. All voted in favor.

Eversource- Spraying around electrical lines

Ms. Durkee stated that she was asked by a resident if the Commission would take a stand on the spraying of herbicides by Eversource. Ms. Hughes stated that none of the proposed spraying is in the Commission's wetlands protection jurisdiction. Ms. Klugman stated that because it is an Island-wide issue, the Island is one watershed, and Eversource is part of the community, they should be part of the solution. She suggested that it should be addressed by the Martha's Vineyard Commission. Ms. Durkee will contact the MVC.

Hajjar – Two Requests for Certificates of Compliance

Ms. Durkee stated that the requests are for the garage and the landscaping around the garage. A letter from Kristen Reimann is needed to certify that the landscaping work was done according to the approved plan. Commissioners agreed to hold off on voting until the next meeting.

Review bids for Elliot consult

Ms. Durkee stated that Coastal Engineering bid \$2,500. Another consultant said they would charge about \$8,000 for borings; they then read the file, realized borings were done before, and stated that the biggest threat would be wave action. She stated that she got the consultants' names from Greg Berman at WHOI/Sea Grant. A motion was made by Mr. Zentner and seconded by Ms. Klugman to accept the bid from Coastal Engineering. All voted in favor.

Sea View Comb, LLC – continued NOI to construct entry porch and mudroom, enclose porch, rebuild and extend a porch inland, new bulkhead with partial basement under inland section of house only, construct porch and deck over existing hard surface patio and remove patio, and related site activities at 370 Sea View Avenue

A motion was made by Mr. Zentner and seconded by Ms. Klugman to continue this hearing until 4:20 pm after the Sea View Comb hearing on the bulkhead extension and coastal bank revegetation. All voted in favor.

Sea View Comb, LLC – continued NOI to revegetate and replenish an existing coastal bank and extend an existing bulkhead at 370 Sea View Avenue

Mr. Nicholson reviewed the bank stabilization plans:

1. Top of bank - extend rosa rugosa buffer four feet toward house on a raised berm
2. Add a sand layer, jute netting, and plant 76 rosa rugosa at two sites on the bank that are slumping and need vegetation
3. Remove a cedar and three pitch pines that are in danger of falling
4. Provide an access point to the bulkhead site through a woodland area to lawn area
5. Extend bulkhead to southern end, angled by stairs, fill with soil behind bulkhead and plant beach grass, add 6-8 large stones to close gap at edge to eliminate scour

Mr. Hoehn stated that a soft solution was considered but not chosen due to the amount of wave action at the site. Ms. Hinkle arrived at this time. Commissioners stated that special conditions would include a narrative description of the access plan for the bulkhead repair and the need for a return to the Commission if someone other than the presenter is hired to do the bank restoration work. A motion was made by Mr. Zentner and seconded by Ms. Klugman to approve the plan with the noted conditions and standard conditions. All voted in favor.

Sea View Comb, LLC – continued NOI to construct entry porch and mudroom, enclose porch, rebuild and extend a porch inland, new bulkhead with partial basement under inland section of house only, construct porch and deck over existing hard surface patio and remove patio, and related site activities at 370 Sea View Avenue

Mr. Hoehn stated that the original application was withdrawn since some of the components were a surprise to him. He stated that this application is similar. He stated that the Commission jurisdiction is the buffer zone to the coastal bank and buffer zone to the flood zone. He stated that the work includes:

- A new covered porch on the inland side of house
- New porch and two rebuilt porches to be built on sonatubes
- A new mud room
- Enclose existing porch
- Remove slate patio (replace with wooden porch on sonatubes)
- Bulkhead access to crawl space
- Drywells to catch roof run-off

Ms. Hughes stated that the area termed a crawl space is actually a six foot basement. Special conditions noted were:

- Gravel underneath porches.
- Space between wood deck panels for rain to go through.
- Foundation work from inland side of house
- Heavy machinery off water side of house.
- Small bobcat use only
- Hand or auger for digging footings for sonatubes.

Commissioners asked for a revised plan that shows the basement. A motion was made by Mr. Zentner and seconded by Ms. Klugman to approve the plan with the noted special conditions and a revised plan showing the basement. All voted in favor. Commissioners will sign the revised plan before issuance of the Order of Conditions.

East Chop LLC – continued NOI for maintenance of an existing pier in Oak Bluffs Harbor, construction and maintenance of three tie-off piles, and installation and maintenance of water and electric services on a pier at 39 East Chop Drive

Mr. Sourati provided details for the electrical system. Ms. Hughes summarized the details. Mr. Sourati stated that there is clear evidence of prior electrical wires on the pier. Commissioners noted that a special condition will require removal of existing wires. The plan calls for two new tie-off piles. Ms. Durkee stated that waivers to the OB Wetlands Bylaw Pier Regulations are required for the two new piles and the electricity. She stated that there was previously electricity on the pier and that the Harbor Master determined that the new tie-off piles would not impact navigation. A motion was made by Mr. Zentner and seconded by Ms. Klugman to approve the revised plan with waivers for the tie-off piles and the electricity, based on the fact of prior electricity, and for future maintenance of the pier. All voted in favor.

Elliot – continued NOI for the demolition of an existing single family residence and the construction of a new single family residence and associated utilities within the 100 foot buffer zone to a coastal bank at 97 East Chop Drive

A motion was made by Mr. Zentner and seconded by Ms. Klugman to continue the hearing to April 25, 2017 at 4:00 pm. All voted in favor.

Keefe – 262 Sea View Avenue – Review methodology for construction of concrete foundation; review final engineering plans

Ms. Durkee stated that the review also requires a drainage plan. Mr. Sullivan presented the final engineering plans and drainage plan. Ms. Hughes stated that the drainage plan includes four infiltrators. Mr. Sullivan and Mr. Osmer explained the methodology for construction of the concrete foundation:

- Support sections with cribbing and I-beams, pour footings, build wall in sections, move supporting system over and excavate as they go and block up and support house exterior perimeter with a block wall and drainage vent as needed
- For the interior they will add pilings or pillars for support
- Pour around fireplace footing
- Some areas will have to be hand dug

A motion was made by Mr. Zentner and seconded by Ms. Klugman to approve the methodology, plans, and drainage plan and that if any alterations are required, structural difficulties, changes in footing structures, or any deviation to the approved plans the contractor must come back to the Commission for review and approval of changes. All voted in favor.

Letter from Major's Cove Property Owner's Association requesting permission to have a local landscaper (rather than Land Stewardship) cut and remove the Phragmites

Ms. Klugman recuses herself. Mr. Johnson stated that Land Stewardship was planning to mow the Phragmites but the Order requires that it be cut. He requested permission to allow a local landscaper to do the cutting because it will be easier and less expensive to have it done locally. A motion was made by Mr. Zentner and seconded by Ms. Hinkle to allow a local landscaper to remove the Phragmites with Land Stewardship doing the remaining work and with Mr. Johnson on-site for the Phragmites cutting. All voted in favor.

Gordon – 4 Fresh Pond Road – discussion requested by Mr. Gordon about the Con Com required legal document for sharing of approved stairs and pier with neighbor

Ms. Gordon stated that the Order requires a legal document from the neighbors agreeing to share use of the stairs and pier. She stated that she is not asking the neighbors for any money. A letter from the neighbors, the Whites, was read into the record. The letter included the following comments:

- They are not prepared to share expenses and thus unable to sign agreement
- They were told the pier was going to be relocated away from the easement and if it is not relocated they withdraw their support for the project as the pier blocks their easement

Mr. Coogan stated that the stairs and pier do not block the easement allowing them access to the pond. Ms. Gordon confirmed that the deeded easement is on her property. Mr. Coogan stated that the Whites don't have the right to a pier at the end of the easement.

Ms. Hughes asked if the stairs and pier infringe on the White's right to access the pond. Mr. Coogan stated that they have the right to access the pond and that right exists with or without the pier. Ms. Gordon added that they can still use the pier. Ms. Hughes stated that the Whites would have to clear a path to the pond for access and that doing so would require a permit from the Commission. She stated that Commission permits go with the land, the Commission and the pier regs support shared use of piers, the applicant complied with the Bylaw pier regulations, and a hardship has not been created in following the pier regulations.

Ms. Gordon stated that she is asking for nothing, is willing to share use, and has no interest in precluding their use. Ms. Hughes stated that the pier enhances the value of the easement. Mr. Coogan stated that to fight the pier the White's would have to prove that their access to the pond is blocked when in fact it is enhanced. Ms. Hughes stated there is still ten feet of unencumbered foot access to the pond on the easement. She stated that the Gordons are not asking the Whites to pay for anything and are in no way restricting their rights. A motion was made by Mr. Zentner and seconded by Ms. Klugman that the letter of agreement for use is not necessary in order to allow the pier to be placed on the site where it was approved. All voted in favor.

Respectfully submitted,

Liz Durkee