



Town of Oak Bluffs
Conservation Commission
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Terry Appenzellar
Sharon Cooke
Rose Ryley
Ron Zentner
Board Members
Garrett Albiston
Conservation Agent
Garri Saganenko
Conservation Admin.

Conservation Commission Hearing Minutes

September 8, 2022, 3:30PM

Hearing held at Sailing Camp Park

177 Barnes Road, Oak Bluffs, MA 02557

Members Present: Terry Appenzellar, Sharon Cooke, Joan Hughes, Rose Ryley, Ron Zentner

Other Present: Garrett Albiston, Garri Saganenko, Ellen Kaplan, Mark Awad, Mark Manganello, Craig Dripps, George Sourati, Mark Crossland, Kyle Crossland, and Various Members of The East Chop Association (see full list below)*

Meeting Called to Order at 3:30pm

Discussions:

3:30PM – RDA for 12 Siloam Avenue M81 P127 George Sourati on behalf of Mark & Anastacia Awad, Request for Determination of Applicability to landscape around a single-family residence within the 100-year F.E.M.A flood zone.

George Sourati presented. He explained that, about a year ago, the Conservation Commission approved the renovation of 12 Siloam Avenue. That work has been completed and now the owners are seeking to complete landscaping around the exterior of the home. George provided a site plan that displayed “lease lines” since there are no property lines at the Camp Meeting Association – he used a master plan provided by the Camp Meeting Association. Currently, land around the property consists of hardscapes. Owners seek to remove hardscapes and create green space. Joan Hughes: Will the grass be sod? Planted. Joan: As a Conservation Commission, we are not comfortable agreeing to privets because they are listed on the state invasive species list. Mark Awad requested a list of acceptable plantings. George Sourati assured the commission they will replace the proposed privets with an acceptable alternative.

Terry Appenzellar shared that the entire property is in AE flood zone, the plan should state that the entire property is in the AE flood zone.

Garret Albiston asked if the Commissioners would like to consider conditioning the spacing of the blue stone, adding that the applicant is taking away impermeable surface and adding permeable surface. Joan shared that the commission usually requires blue stone to be dry-laid, with stone dust instead of mortar, and to maintain at least ½” spacing.

Terry Appenzellar moved for a negative determination of applicability with the stipulations that blue stone spacing be at least ½" inch and that the plantings will not be privets, but an acceptable alternative. Ron Zentner seconded. All members voted Yes.

Ellen Kaplan then rose to speak. Ellen shared that she was at the meeting to speak on behalf of the abutters to 12 Siloam Avenue. There was then a dispute about whether Ellen's comments would be considered as having taken place before the vote or were now considered to be taking place after the vote. Joan Hughes and Garrett Albiston explained that the vote had already occurred and could not be taken back.

Ellen shared that the proposed plan at 12 Siloam includes sod, drip irrigation, and an outdoor shower – the last of which her client has concerns regarding drainage. Ellen then shared that the MV Camp Meeting Association has issued a determination delineating boundary between 12 and 13 Siloam but that there are no instrumental surveys. George Sourati explained that he has completed roughly 50 projects in the campground over the past 20 years and that his firm uses the hand-drawn master map provided by the MVMCA. These show the lease lines of each property, Sourati then superimposes this map over their plans to show estimates of lease lines. Ellen shared that she believes these lines could be off "more than slightly." Garrett Albiston shared that the Conservation Commission hearing isn't the proper venue for the issue being raised. He explained that the application asked for a determination of applicability, for which a negative determination was issued. A Notice of Intent might require such issues to be raised, but not a negative determination. Joan Hughes shared that this is traditionally how the lease lines for Campground projects are accepted and the Commission has no reason to believe they should be reconsidered. Ellen shared that there is pending litigation in Land Court between applicant Mark Awad and owners of 13 Siloam and and 21 Commonwealth Avenue. The matter concerns whether there is an easement through the path/area in which there is proposed work at 12 Siloam Avenue. Joan Hughes reaffirmed that the Commission's concern is strictly with the applicability to the Wetlands Protection Act, not Land Court rulings.

3:45PM – NOI for 19 Mill Square Road M3 P19 Mark Crossland on behalf of Abby Sage, Notice of Intent to landscape on a property both within the 100-foot buffer as well as the 100-year F.E.M.A flood zone.

Kyle Crossland and Mark Crossland presented. Joan shared that this project has already had hardscape work approved and that the applicants have been asked to return with landscape plans. Joan shared that the flood zone exists on both sides of the property. There was discussion between Joan Hughes and Terry Appenzellar about where run-off from the property would drain – down Mill Square Road and into the harbor? Terry asked if it is a year-round residence. Mark Crossland, not currently but eventually it will be. There was then discussion about limiting the use of additional asphalt in the driveway. Mark explained that there are significant dry wells in the area that will allow for ample drainage. Terry said she would like to see the number of plants and types explicitly listed on the plan, not just a general description. The plant names, the number of plants, and their sizes will avoid disagreements after the fact. Kyle Crossland shared that this would be possible, along with blue stone spacing measurements.

Terry Appenzellar moved to continue the hearing on the Notice of Intent to 9/22 at 4pm at the Oak Bluffs Town Hall. Sharon Cooke seconded the motion. All members voted in favor.

4:00PM – Continuation of Hearing for NOI for East Chop Drive/Crystal Lake M1 P21, 56, 58, 60, 61 SE053-0867 Mark Manganello on behalf of East Chop Association, Inc., Notice of Intent to implement a vegetation management plan including the creation of view corridors and maintenance activities within a Wetland Resource Area and a 100-Year F.E.M.A. flood zone.

Terry Appenzellar recused herself from discussion regarding the application. Mark Manganello presented and gave an overview of the NOI application. He shared the following: view channels will be established along the East Chop Drive portion of Crystal Lake both for the public and for East Chop Association members. As well on the other side of the lake across from East Chop Drive to down to the harbor. The intent of the application is to establish a program that is more manageable than previous plans, approved by the commission and with which a contractor can implement without too much oversight. By “managed” he means in a way that is best for the environment and for the commission to do in an environmentally sensitive way. There would be no clear cutting, no topping. He then transitioned, sharing that there is a lot of history with view corridors around the lake, including permitted, informally authorized, and unauthorized cutting. He did not feel it would be fruitful to discuss the full history. What is clear, he shared, is that there have been permits for vegetation management and that, for the most part, the vegetation has done well.

The Notice of Intent calls for 9 view corridors on plan, with 8 being on East Chop Drive itself. These corridors were selected based upon the existence of old corridors – the intent is to restore previously established corridors to minimize disturbance of current vegetation. There is a plan to replace vegetation that does not survive.

He shared that the invasive species management plan will also be continued. Some of the corridors do have invasive species. We have phased this program with no intention to complete all 9 view channels at once, but 2-3/year. Monitoring of the project would be expected in an order of conditions, commission would have to approve a contractor to perform the work. The project would take place over 3 years but a 5 year Order of Conditions would be preferred.

Joan Hughes shared the commission’s questions concern the extent, timing, and the manner in which the plan will be effected. She reviewed the Order of Conditions from 2017 and that there are a lot of the things from that order we still agree to, some of the issues beyond that we still disagree to. She added that two variances have been requested for this Notice of Intent and that it doesn’t seem the standard for a waiver has been met. Mark asked for specifics. Joan replied, healthy trees cannot be removed unless threatening to fall on structures. We need to establish a standard as a Commission. We have allowed the removal of trees when they threaten the bank. That’s not a problem here, it’s flat. As for the Red Cedar variance she shared, they don’t like to be pruned. These high wind areas already stunts growth. These things can be discussed, but without the issuance of waivers. A discussion about previous pruning of cedars ensued.

Joan shared that she hoped invasive species removal would be conducted first in these areas before moving on to viewscape management and creation. Garrett shared that he doesn’t believe the commission wants to see previously uncut cedars cut. As well, 9 view channels are being proposed whereas, 5 view channels were in the 2017 application. Typically, it’s 2 view channels per property. Mark shared that this is a rare, unusual case and that that limitation might primarily be designed for single family homes. Joan summarized: I have gone through the 2017 permit, and would be interested in the application of your techniques to these previously 5 allowed corridors, then seeing where they are after 3 years.

Joan, 3 year permit in maintaining original 5 view channels. 2 for the 1st year. Tag everything that is to be done.

Ron Zentner shared that the applicant is saying there are no new view channels. But that 5 were approved and now 9 are being requested.

Mark shared that the most recent permit didn't demonstrate this but they were clearly viewing corridors in these areas at some point. He added that his concern is that in 3 years the unapproved view channels will be subject to 3 more years of unchecked growth.

Commissioners looked at a map of previous corridors from 2017 and compared them to the 2022 proposal.

Sharon Cooke asked when the invasive species are going to be removed pursuant to the last NOI on East Chop Drive. She then asked, if view corridors aren't approved then would invasive plants not be managed? Mark could not provide a clear yes or no answer, but shared that a permit is not a mandate.

Joan shared that if it appears on your application there is some type of commitment and you come back six years from now and nothing on the application has been done, then there would probably be a rejection of a new application. A discussion ensued about what would be easiest in terms of view corridor creation and invasive species management. Joan asked Craig if Mark Manganello would continue to be involved with this project in the future. Craig said Yes.

Joan Hughes: Public access must be maintained in order to secure state funding. How would that happen?

Garrett Albiston shared that he thinks another site visit would be beneficial.

Sharon Cooke shared that this application should be workshopped and we should be meeting with parties and comparing it to 2017. Often times it seems like we discuss these things in meetings and not everything is addressed. I read this letter [requesting a variance] and my reaction is 'we're not there yet.'

Garrett suggested he meet with Craig, see public access trails, continue the hearing for 6 or 8 weeks while he gives updates on their other permits in the meantime.

Ron Zentner moved to continue the hearing until 10/20 at 3:45pm Sharon Cooke second. All voted yes. Terry Appenzellar previously recused herself from all voting and discussion.

Terry Appenzellar motioned to adjourn the meeting. Sharon Cooke second. All voted yes.

-any other matters not reasonably anticipated by the Chairperson

Other Business:

- Vote on minutes from 8/18/22 Meeting

TA moved to approve 8/18/22 with amendments made by Garrett Albiston via email and circulated to Commissioners. See line added by GA below. SC seconded.

"He recommended that the larger areas previously foliar sprayed should now be clip and dripped and that new areas that were proposed to be foliar sprayed, may now be foliar sprayed."

***Forrest Williamson, Christine Williamson, Walter Vail, Dave Eckert, Yin Richardson, Herbert Klein, Tom Confrey, Joe Carter, Craig Lowe, Carey Dearing, Patricia McEachern, Spencer Disher, Betsy Dripps, Pamela Crigler, James P. Hunsaker, Ru Hunsaker, Wallace Carroll, George W. McEachern III, Jane Meleney Coe, David Robinson, Wolf Karbe, Kylee Karbe, Barbara Baskin, Kathy Wilkerson**