

Minutes of a Conservation Commission Meeting - 3 December 2014

Members present: Peter Vincent - Chairman, Stuart Lollis, Jeff Carlson, Christina Brown, Lil Province, Geoff Kontje

Absent: Bob Avakian

Staff: Lisa Morrison, Jane Varkonda

BRYAN Swimming pool, Pocha Pond. Doug Hoehn and Darren Ruebens present for the applicant. Former Cressy property. Agent noted that most of the pool is outside the Commission's jurisdiction. Retaining wall will be approximately 30-inches high. Pool will be approximately 36-inches above grade. Pool will be made of gunnite. A dry well will be installed to handle any pool drainage. A landscape and lighting plan will be submitted for approval prior to completion of the project. Only that lighting mandated by the building code is permitted prior to the approval of a lighting plan. Brown made a motion to approve the project as presented – with conditions. Carlson seconded the motion. Unanimously approved.

HOULAHAN/DANZIGER View channel, off Katama Road. Doug Hoehn present for both applicants. Paul Pertile was present for Danziger as well. The proposed view channel is on a portion of both properties, so separate notices of intent are required. The Commission agreed to hear both applications at the same time. A copy of the view easement was submitted for the file. Mr. Hoehn explained that previous plantings have been allowed to grow up and block Danziger's view. Danziger and Houlahan have worked out a plan to create one view channel that starts by Danziger's pool and heads across to the pond. The wall of vegetation is primarily on Danziger's property, although some is on Houlahan's as well. The proposal is to maintain the vegetation at a height of approximately 4-feet. Brown asked if the work would affect the public vista. Mr. Hoehn said that he did not think that the houses would be any more visible to the public from the water. Carlson proposed a site visit. Brown seconded the motion. Unanimously approved. Continued to 17 December for site visit.

SPANFELLER Removal of invasive vegetation, Major's Cove. Donald Brown was present for the applicant. Project involves pruning along the edge of the cove where there is a mix of bittersweet, chokecherry, cat briar, and russian olive. The area to be pruned is approximately 3-feet wide by 150-feet long. The applicant would like to improve their view. All the work will be done by hand; native vegetation will be encouraged. Invasives will be pruned down the ground or to six-inches, depending on the type. They hope to encourage the swamp azaleas, clethra, and tupelos. No

vegetation will be removed by the roots – it will just cut or pruned. Applicant is asking for a five-year maintenance order. Work will be monitored by the Conservation Agent. Fred Fournier commented that he took care of property for a previous owner and is in favor of the proposal. Province made a motion to issue an order of conditions. Lollis seconded. Conditions to include: 5-year maintenance permit, work to be done by Donald Brown. If another contractor is used, owner and/or new contractor will need to check in with the Conservation Agent prior to working on the site. Unanimously approved.

LEVINE continued to 17 December meeting for MAC review.

HARMON Amend order to include swimming pool & reconfigured driveway, North Neck Road. Kristen Reimann present for the applicant. House was approved back in May. The original proposal included a swimming pool, but it was withdrawn after consultation with the Marxes, who abut the property on the south. The pool has been moved to the other side of the property, where it now abuts the Harmons' parents, who have no objection. New pool location is further back from the wetlands and the harbor than the original design. Pool is approximately 185-feet from the wetlands. Pool is elevated above the existing grade of 5-feet. The height of the coping will be at approximately 9.5-feet. The pool site is quite flat, there will be free-standing walls around the pool and a wood deck. The maximum depth of the pool will be 7-feet. It will have a salt-based purification system. Ms. Reimann said that some dewatering may be required because of the proximity of ground water.

The applicants are also asking to amend the location of the driveway. The driveway will be permeable – Vineyard hardener will be used. The parking area will be peastone. Kontje was concerned that the driveway would drain into the isolated wetland. Ms. Reimann did not think this would be an issue because of the dense vegetation in the area. Kontje asked whether the applicants had considered subsurface drainage under the parking area and driveway.

Ms. Reimann also noted that the footprint of house has changed slightly: the new house is smaller than the originally approved house and further back from the resource area.

Province made a motion to continue the hearing to December 17th for an additional site visit. Kontje seconded the motion. Unanimously approved.

[Vincent abstained from the next hearing and left the room. Kontje recused himself from voting on the application.]

TOM'S NECK FARM Matthew Dix, property manager for the Land Bank, and Julie Russell, Land Bank ecologist, were present. A revised plan was submitted. Mr. Dix noted that the Land Bank had filed a similar request six weeks ago that was denied. He explained that the Land Bank is attempting to purchase this 35-acre piece to protect the pond and watershed from development. After visiting the property again with Ms. Russell, the new plans were revised again to add some additional elevated boardwalk in an area of bank where - both agreed - a ground-level boardwalk was just not appropriate. Putting a ground level boardwalk in this area would cause more damage to the salt marsh than a boardwalk over the actual salt marsh. The original filing called for 781-feet of boardwalk in the salt marsh. This new filing asks for 445-feet.

Norma Kontje, an abutter and a member of the Chappy Open Space committee, spoke in favor of the new plan which, she said, would create an absolutely beautiful nature refuge and permanently protect the property from development. She urged the board to rethink their earlier position and allow this revised plan. She noted that under the wetlands protection act, elevated walkways over salt marshes are allowed.

Ann Floyd, a trustee of the property, asked the board to consider the effect of up to 30 possible bedrooms on the property, as well as cars and 5000 s.f. houses. She said she would like to understand the science behind the board's reasoning for not wanting boardwalks across the salt marsh.

Michael Kidder, another abutter, also spoke in favor of the project. He said that the one-time disturbance of building a boardwalk is minor compared to the risk of conventional development.

Carlson was concerned that the board had recently denied boardwalks in salt marshes in two nearby locations. He acknowledged that - unlike the previous applications - this boardwalk provides public access.

Brown spoke of her appreciation for the Land Bank and what they do for the island. She said she feels the Commission is in a very difficult position. She said she was especially concerned about protecting the edge of the salt marsh, which is home to so much wildlife.

Lollis agreed that it was important for the Commission to be consistent. He said that the problem could be solved with some minor adjustments to the property lines.

Province agreed that the property is spectacular. She said that she does not want to see it developed, and trusts the Land Bank to protect the property.

Ms. Floyd noted that the board has approved boardwalks in salt marshes in the past. She questioned whether or not the boardwalk would actually have an appreciable negative impact on the salt marsh.

Norman Rankow commented that he did not think that the board needed to worry too much about setting a precedent as this application has public benefit while, the previous applications benefitted only individual private owners. He said that the public deserves access to this piece of property, and urged the board to accept the Land Bank's compromise.

Courtney Brady agreed and said that the board could tell a private landowner who wanted a boardwalk across a marsh that could have it provided that it was open to the public.

Matthew Dix commented that the proposal was brought to the Land Bank by the citizens of Chappy. He noted that the property also has value as a water shed for Cape Poge Bay. He said that water quality is affected by septic systems, not by boardwalks.

Ann Floyd commented that the owners were required by the MVC to do an archeological survey of the property. No remains were found on the property, but it is protected by the National Historic Registry.

Julie Russell commented that the installation of the boardwalk would have minimal impact on the salt marsh as no digging is required for the pin foundation system. She noted that NHESP is 100% behind the project. She commented that the individual homeowners would not be under the same obligation to enhance the habitat.

Carlson asked whether the boardwalks could be removed from the proposal without sacrificing the rest of the plan.

Mr. Dix replied that if the public does not have access to the entire piece, he does not believe the Land Bank will purchase the property. He also said that there was no latitude to alter the property lines.

Ms. Kontje added that the Land Bank is willing to invest 5 million dollars; she does not think any other group or individual will come forward to save the property.

Mr. Rankow asked if there had been any letters of dissent or any one speaking against the proposal.

Brown asked the agent if she knew of other salt marsh boardwalks approved in the area. The agent noted that the Land Bank and Sheriff's Meadow have boardwalks over salt marshes on Chappy. The Garvey, Melone, and Felix Neck properties were also cited.

After some further discussion, Province made a motion to approve the proposal as presented, noting that there were no changes to the other aspects of the project, which were approved in a previous orders of conditions. Carlson seconded the motion Lollis and Brown also voted to approve the project as presented. Unanimous.

[Vincent returns to the meeting]

FOLLIARD Patrick Ahearn and Norman Rankow present for the Folliards. Mr. Ahearn reported that the Folliards have reconsidered and are withdrawing their proposal to build a two-bay, two-story garage adjacent to the Pagoda tree. They are amending their request to rebuild a small one-car garage on the existing foundation. No additional excavation would be required. The structure will be cantilevered out an additional four feet to make it slightly wider, but there would be no additional footprint. The Historic District Commission has approved the design.

After some further discussion, the Commission voted to rescind the approval of the previous amendment. Carlson made the motion and Lollis seconded. Unanimously approved.

Because there will be no excavation, refilling under the Edgartown Wetlands Protection Bylaw is not necessary and the structure is out of the state's jurisdiction.

The commission asked the applicant to submit a cross-section of the building and to ensure that there is no excessive compaction in the parking area. Rankow reminded the board that the Vietors have been parking cars adjacent to the tree for over 50 years.

FARM INSTITUTE The board approved a request for \$3435 to install a fence to protect the trees planted by AT&T. They also responded to a letter from Jon Previat regarding renewing the lease. The Commission would like to meet with the board of the Farm Institute and review the financial situation in connection with renewal of the lease.

The Commission also determined that the Farm Institute is responsible for repair of any and all perimeter fencing.

INDIANHEAD PENNY VS. WRIGLEY The Commission had no interest in appealing the judge's most recent determination in this matter.

There being no further business, the meeting was adjourned at approximately 7:30 p.m.

Approved: _____