

## Minutes of a Conservation Commission Meeting - 6 June 2012

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

Absent: Bob Avakian, Edo Potter

Staff: Jane Varkonda, Lisa Morrison

### **Public Hearings:**

RANKOW NOI to install a timber pile. Dick Barbini representing applicant. Lot was created six months ago by carving out some former Vietor property – prior lot did not have water frontage. Mr. Rankow bought the rights to the two tie-off spiles closest to the shore. Ownership of the third piling was retained by the Vietors. Mr. Rankow would like the additional spile in order to make a slip where he will back in a boat. The spile would be located 34-feet from the Reed pier.

Brown asked if the Marine Advisory Committee had commented on the application. Staff was told that the MAC is still in the process of reviewing the application. The harbormaster has recused himself from the discussion, as a family member is an abutter.

Dave Nash, former chairman of the dredge advisory committee, asked if the fact that the applicant was involved in illegal dredging and an enforcement action would be considered. Chairman Vincent said that the commissioners are all aware of the violation, but that it is a completely different issue. Chairman Vincent said there is no on-going violation.

Ellen Kaplan, attorney for the Reeds who own adjacent property, had a number of questions and concerns. Ms. Kaplan noted that the proposed platform/pier is right on the property line and the proposed spile would be 34 feet from the Reed pier. The MAC suggests a minimum of 50-feet. Ms. Kaplan said that she attended today's MAC meeting. She said that the committee expressed no opinion and continued the matter to June 20<sup>th</sup> for a site visit and full-scale plans.

Ms. Kaplan said that the spile would interfere with the Reeds' ability to navigate. They have a 48- foot boat. Ms. Kaplan also submitted a copy of a special permit from the Planning Board that prohibits additional piers in this area. Ms. Kaplan said that the creation of a slip in this area would constitute a navigation hazard.

George Davis, attorney for the Vietors, said he agreed with the statements made by Ms. Kaplan, and that he will reserve his comments for the next matter before

the board.

Mr. Barbini commented that Mr. Rankow owns two piles; they were sold to him by the Vietors, who are now objecting to his use of those piles. Mr. Barbini said that Mr. Rankow has every right to moor a boat in that location. He is requesting an additional piling in order to make a safer slip, and commented that one pile does not constitute a pier.

Mr. Davis noted that there is a private agreement which stipulates that no boat can extend past the second piling.

There was some discussion about the Vietor special permit and the fact that there was concern at the time that the Vietor pier not be used as a commercial marina.

Mr. Barbini noted that Mr. Reed puts his boat on the opposite side of the pier, away from Mr. Rankow. Mr. Barbini commented that the suggested 50-foot separation is between piers not pilings. Pilings do not require special permits.

Attorney Davis commented that the Planning Board can not override a private agreement between neighbors.

Brown made a motion to continue the hearing until the MAC has made a decision. Province seconded the motion. Unanimously approved. Continued to 20 June.

RANKOW NOI to install a 4 x 14 landing. Dick Barbini representing applicant. Mr. Barbini commented that the primary issue with this request is that it doesn't meet the conventional setbacks: 50-feet between piers and 25-feet from property lines. Mr. Barbini said that the proposal is not for conventional pier – its only purpose is to act as a landing and a place to back a boat up to. The structure would be parallel to the bulkhead, unlike a typical pier that is perpendicular to the shoreline. However, the zoning inspector has determined that the structure is a pier for zoning purposes. Mr. Barbini said that it would be hard to argue that this would cause any navigational issues. Mr. Barbini noted that the Reed pier juts over half the water space of this lot and, consequently severely limits Rankow's use of his property. Mr. Barbini said that his client would be willing to shorten the structure. Mr. Barbini said that in his opinion it is not a pier, it is a landing - which makes it a little safer for older people who don't want to jump off the back of a boat.

Barbini noted that both the Conservation Commission and the Planning Board must approve the project before he can submit it to the state.

Barbini said that he had been told that a bottom-anchored float would not be acceptable to the town.

Lollis asked if the structure could be moved closer to the Reed property. Mr. Barbini said that there is no location that would provide the 25 foot setback from property lines.

Mr. Barbini said that he is fully aware of the harbor guidelines, but is questioning their applicability in this particular case.

Mr. Rankow said that he sees this as a safety issue and that he is trying to respect everyone's property rights. He said he thinks the plan as unobtrusive as it could be.

George Davis, attorney for the Vietors, said that his clients were told by the Planning Board that no additional piers could be constructed in that area, and that Mr. Rankow bought the property with that understanding. Mr. Davis commented that conventional or unconventional is not an issue, as the building inspector has agreed that it is a pier.

Ellen Kaplan concurred, saying that it is definitely a pier, and the construction would be contrary to the Planning Board's special permit. She went on to say that with just 1 1/2 feet of water at low tide, it is not an area conducive to backing up a boat. Ms. Kaplan noted that ownership of waterfront property doesn't automatically entitle you to a pier. She said the issue is density, and suggested that a pier in this location is completely inappropriate and should be denied.

Mrs. Oliver said that she spoke with DEP who said that they do not distinguish between piers, landings, or docks. She said that if her family thought there could be water access, they would not have sold the property. She said her family was told that there was no possibility. She said they never applied, because they were told they would be denied.

David Vietor wanted to clarify that the current configuration of the lot existed until the 1940s when it was made part of lot 29. He said that this lot was not created out of thin air.

After some further discussion, Province made a motion to continue the hearing until the next meeting, June 20<sup>th</sup>. Brown seconded the motion. Unanimously approved.

BEAMS. NOI to partially demolish and expand a residence, Dow's Pond. George Sourati representing applicant. Property is adjacent to TTOR property. Proposal involves demolition of the house down to the first floor, keeping the first floor frame and foundation. Footprint will be substantially the same. Additions will be on piers. Both the existing house and the proposed are partially within the state's jurisdiction. Continued to next meeting, June 20, for site visit.

WELCH & FORBES. *Determination* Doug Cooper representing applicant. Request for a determination to upgrade septic system. Property belongs to Edo's sister. Old cess pool is within the buffer zone of kettle hole and is on the brink of failure. Proposal would move the leaching field outside wetlands, just in buffer zone. Well will also be relocated outside buffer zone. Some new trenching for water lines is also part of the application. Old cesspool will be abandoned and filled with sand. Work area will be cordoned off by silt fencing to prevent runoff into kettle hole. Work can be done in 2 to 3 days, the area will then be revegetated, seeded, and mulched.

Province made a motion to issue a negative determination # 3. Lollis seconded. Unanimously approved.

KERNOCHAN . *Determination to construction an addition, Tower Lane.* John Kernochan, owner and contractor was present. Addition will be slightly closer to an isolated inland wetland. Property is located between Tower Lane, 17<sup>th</sup> Street, and the Boulevard. Changes to footprint will come in less than 100 s.f. but living space will increase with a second floor. Jeff Carlson made a motion to issue a negative determination # 3. Unanimously approved.

KUMPITCH *Determination.* Richard Knight agent for applicant. Request for a path to beach access road. Applicant would like mow a pathway and put in some dry-laid stepping stones. Stones are from Belgium and are leftover from a previous project. Project is within the local jurisdiction only. Carlson pointed out that the commission still needs a formal determination of the front property boundary, and suggested a site visit.

Agent pointed out that there is still an outstanding issue: Kumpitch has only paid part of the fine to Sheriff's Meadow. Continued to the next meeting. Mr. Knight said he will speak to Mr. Kumpitch about the Sheriff's Meadow matter.

PLAINE. *Continuation.* Tom Carberry present for the applicant. Proposal is for a 6-bedroom residence at 50 North Neck Road. A report of the site visit was given. Project is set back further than abutters on either side and is outside of the 100-foot zone. Height illustrated as being within tree line. Cedar left to weather - thinks it will not be obtrusive. Site visit - building site lower than the bluff and from the abutter on each side.

Comments - Carlson behind other two, sits in hollow. Good a spot as it can be.

Varkonda - changes in grade put on the landscape plan. Carlson - move to approve, Lollis second. Changes in grade & lighting plan, New notice of intent

for work on bulkhead and .

No cutting of any vegetation except for the house. Construction zone to be reviewed by Jane - take out as little as possible.

ABBRECHT Doug Hoehn and Claudia Noury- Ell architect. Project under construction. Change in the elevation - windows etc. No change in height or footprint. Second floor similar - First floor has 14 feet more glass. Mock up from the water submitted. Vegetated buffer not shown on mock up. Request for modification - approved. We have Steve Stimson landscaping plan. CB outdoor lighting plan? LP move to approve. Lollis second. Unanimous.

CPC Appointment - PV unanimously reappointed.

KATAMA FARM - JV reconsidered their vote - Kathy Cerrick resigned. JV thinks misinterpretation - SM voted to award the bid. Consultant shopping. CB talk to AT&T about education, perhaps Kathy's expert. Lollis don't go there. Renegotiate lease to remove silos and access road and where building will go. Structural work to silos needs to be done. Needs special permit from planning board.

Adjourn 6:50