

Final Approved
Wellfleet Conservation Commission
Meeting Minutes
July 19, 2023

In attendance (via Zoom): Chair Leon Shreves, Barbara Brennessel, Clerk Michael Fisher, John Cumbler, Robert Stewart, Benjamin Fairbank, and Marty Murphy; Interim Health and Conservation Agent Meredith Ballinger and Secretary Jennifer Elsensohn.

Business Meeting

Loen Shreves was having technical difficulties, so Barbara Brennessel suggested that we have a temporary chair to get the meeting started. Michael Fisher moved that Barbara Brennessel be temporary chair, Marty Murphy seconded. Vote: Michael Fisher yes, John Cumbler yes, Robert Stewart yes, Benjamin Fairbank yes, Barbara Brennessel yes, and Marty Murphy yes. 6-0.

4:09 p.m. Barbara Brennessel opened the Business Meeting.

Jurisdictional Opinions:

Ellen and Lawrence Marshall, 45 Forrest Road, map 16, parcel 619, requested permission to take down one decaying white oak. Meredith Ballinger had visited the site and reported that the tree was in very bad health and posed a threat to the residence deck. Ballinger recommended the condition that the homeowners plant three shrubs as mitigation. A discussion about the location and the plantings followed. Michael Fisher moved to approve this Jurisdictional Opinion with the Condition that three shrubs be planted as mitigation, Marty Murphy seconded. Vote: Michael Fisher yes, John Cumbler yes, Robert Stewart yes, Benjamin Fairbank yes, Barbara Brennessel yes, and Marty Murphy yes. 6-0.

Minutes:

Approval of the draft Minutes from the June 21, 2023, meeting were discussed. Michael Fisher asked for a clarification on Meredith Ballinger's official title. Ballinger reported that she is the "Interim Health and Conservation Agent." The Secretary was asked to amend the draft Minutes to reflect this title. With this amendment, Robert Stewart moved to approve the draft Minutes, Michael Fisher seconded. Vote: Michael Fisher yes, John Cumbler yes, Robert Stewart yes, Benjamin Fairbank yes, Barbara Brennessel yes, and Marty Murphy abstained. 5-0-1.

At 4:17, Leon Shreves was able to join the meeting and resumed the role of Chair.

Mail:

Meredith Ballinger reported that a resident has lodged a complaint that someone had mowed a path over Town-owned land between the houses on Ione Road and Burton Baker Beach. Ballinger shared her screen to show the Commission the damage. The path was mowed in an Area of Critical Environmental Concern and the Federal Emergency Management Agency flood zone, cutting native plants. This also created a potential path for flooding of houses on Ione Road. Ballinger stated that she has drafted letters to the abutters to try and obtain more information about who might have done the cutting. Ballinger is also going to ask the DPW to install a small split rail fence to discourage trespassers and thus prevent further damage and

allow for new growth. Barbara Brennessel suggested that the person responsible should be required to revegetate the area with native plants.

Chair Leon Shreves explained to the Commission the lessons from the recent presentation by the Town attorneys about the need for full compliance with the Commonwealth's Open Meeting Law. Specifically: Agendas and Minutes should have all acronyms spelled out; only items on the legal Agenda can be discussed; the Chair must announce that the meeting is virtual and recorded on Zoom and that it is being broadcast and available for public viewing. The Commission may listen to a statement by someone present at the meeting even if it is not on the official Agenda, but there will be no discussion of the topic until it has been announced on a future meeting's agenda. In light of this, the issues of both the tent at the Country Club and cultching cannot be discussed until they appear on the agenda of a future meeting. Secretary Jen Elsensohn will model the agenda and minutes on those of the Selectboard.

Meredith Ballinger reported that she intends to be able to launch online application submission in September. She asked the Commissioners to consider how they would like to receive their packets: via email, or as paper copies. The consensus was that they would like most of it to be electronic, but plot plans should be hardcopies, and there should be at least one full hardcopy of materials present at the on-site visits. It was agreed that this would be taken under review again as the online forms are made available.

At 4:35, Michael Fisher moved to close the Business Meeting, Barbara Brennessel seconded, Vote: Michael Fisher yes, John Cumbler yes, Robert Stewart yes, Benjamin Fairbank yes, Barbara Brennessel yes, Marty Murphy yes, and Leon Shreves yes. 7-0.

Public Hearings

5:00 p.m. Chair Leon Shreves opened the Public Hearings.

Farnsworth, 135 Pine Point Rd., Map 21, Parcel 54, Request for Determination of Applicability, limited filtered vista. Two pitch pines, one white oak, and three apple trees to be planted in the 50' Buffer Zone. No pesticides, herbicides, or fertilizer will be used.

Gordon Peabody spoke on behalf of the homeowner. He reported that the property used to have a clear view to the harbor, but trees have blocked it. He proposes pruning some pines and an oak, retaining a varied horizon in order to promote successful bird nesting and retaining a thriving habitat for many animals. The mitigation proposed was to plant three apple trees, one oak, two pitch pines and some blueberry bushes in the 50-foot filter strip. The Commission recommended not planting apple trees since they are not native. Mr. Peabody then proposed planting arrowwood instead of apples. A further discussion about the placement of the trees and bushes ensued. An abutter, David Mead-Fox, questioned Mr. Peabody. Michael Fisher moved to identify this as a Request for Determination of Applicability with a Negative 2 Determination: "The work described in the Request is within an area subject to protection under the Act, but will not remove, fill, dredge, or alter that area. Therefore, said work does not require the filing of a Notice of Intent") with the Condition that native trees be planted instead of apple trees. Barbara Brennessel seconded. Vote: Michael Fisher yes, John Cumbler yes, Robert Stewart yes, Benjamin Fairbank yes, Barbara Brennessel yes, Marty Murphy yes, and Leon Shreves yes 7-0.

Johnson/Alford, 156 Pleasant Point Road, Map 35, Parcel 110, Request for Determination of Applicability, remove two large pitch pines and replace with two apple trees and ten low bush blueberries.

Gordon Peabody represented the homeowner. He immediately amended his plan for this property based on the previous discussion, reporting that he would plant arrowwood trees rather than the initially proposed apple trees. He clarified that he intended to prune, not remove, two large pitch pines. There were no questions or concerns from the Commission or the public. Michael Fisher moved that the Commission identify this as a Request for Determination of Applicability with a Negative 3 Determination: "The work described in the Request is within the Buffer Zone, as defined in the regulations, but will not alter an Area subject to protection under the Act. Therefore, said work does not require the filing of a Notice of Intent"), with the Condition that arrowwood be planted rather than apple trees. John Cumbler seconded, Vote: Michael Fisher yes, John Cumbler yes, Robert Stewart yes, Benjamin Fairbank yes, Barbara Brennessel yes, Marty Murphy yes, and Leon Shreves yes 7-0.

Dzen, 190 Blue Heron Rd., Map 41, Parcel 12, Request for Determination of Applicability, blueberry and beach plum plantings (Continued).

There was no representative of the applicant present. This hearing has been continued twice already and no one has attended a meeting to speak on behalf of the project. There is a fine for repeated continuances and a limit on how many the Commission can authorize. The Commission discussed the appropriate action. The homeowners had cut down trees without permission and did not plant the blueberry and beach plum bushes that their previously approved plan prescribed. After much discussion, John Cumbler moved to accept the Request for Determination of Applicability, Leon Shreves seconded. Vote: Michael Fisher no, John Cumbler no, Robert Stewart no, Benjamin Fairbank no, Barbara Brennessel no, Marty Murphy no, and Leon Shreves no, 0-7. Meredith Ballinger will follow up with the homeowners and let them know that they must make another after the fact filing.

McCloskey, 20 Harbor View Circle, Map 21, Parcel 45, Request for Determination of Applicability, remove falling and overcrowded trees.

Mr. McCloskey spoke on behalf of his own project. He proposes to cut down five trees within the 100-foot wetland buffer zone. He stated that thinning trees in a densely forested area provides more sunshine for low growing plants, room for other trees to flourish, and prevents wildfires. He is not seeking to improve his view. There was a discussion about whether the area in question was, in fact, a wetland buffer zone as the plan that McCloskey submitted indicates but which he now states does not exist. The MassMapper does not show it to be wetland, but three independent engineers designated it as such on neighboring properties. Commissioners stated that this is a forest with valuable biomass, habitat for animals, and carbon capture. There is a compromised area of patchy exposed soil uphill from the trees in question which would be susceptible to erosion. The homeowner indicated that he had planted some juniper on the other side of the house and it has helped there with erosion. A straw vote was taken about the acceptability of only removing three trees in the 100-foot buffer zone. Michael Fisher then moved to identify this as a Request for Determination of Applicability with a Negative 3 Determination: "The work described in the Request is within the Buffer Zone, as defined in the regulations, but will not alter an Area subject to protection under the Act. Therefore, said work does not require the filing of a Notice of Intent") with the Condition that only three trees would

be removed. Marty Murphy seconded, Vote: Benjamin Fairbank, yes; Michael Fisher, yes; Marty Murphy, yes; Robert Stewart, yes; John Cumbler, no; Barbara Brennessel, abstained, Leon Shreves, no. The motion passed, 4-2-1.

Bishop, 385 Pilgrim Springs Rd., Map 29, Parcel 238, Request for Determination of Applicability, installation of an underground liquified petroleum (LP) gas storage tank.

No representative was present. When the Commission made its site visit, the proposed work that had not yet been approved was about to commence. The workers on site immediately stopped. The applicant was officially informed that someone must be present at the hearing. Meredith Ballinger called the party on the phone to see if someone could be available to attend the meeting. But, by the end of the meeting, no representative had appeared. Michael Fisher moved that this application be continued until August 2, John Cumbler seconded, Vote: Michael Fisher yes, John Cumbler yes, Robert Stewart yes, Benjamin Fairbank yes, Barbara Brennessel yes, Marty Murphy yes, and Leon Shreves yes 7-0.

Bross, 46 Sandpiper Hill Rd, Map 22, Parcel 6, Notice of Intent, construct 248 square foot addition to southerly side of dwelling.

Atlantic Coast Engineering spoke on behalf of the homeowner. The proposed plan is to add a 248 square foot addition and deck to a single-family dwelling within the 100-foot buffer zone. Erosion controls will be installed around the limit of work. No trees will be affected.

Clarification about the proposed compost filtered tubes for erosion control was requested by the Commission, and the engineer offered to add a silt fence. The Commission indicated that the plan is lacking vital information: the square footage of disturbance within the 100-foot wetland buffer before and after the addition must be included. Additionally, the plan states 50 foot and 100-foot buffers from ACEC (Area of Critical Environmental Concern) instead of 50-foot filter strip and 100 foot buffer from the top of the coastal bank. There were also spelling and typographical errors that need to be corrected. The septic system is currently a functioning Title 5 system, but the homeowner was encouraged by the Commission to consider taking this construction opportunity to upgrade to an Enhanced Innovative and Alternative system. The homeowners stated that they are interested in doing that soon since they want to protect the environment. There is currently a \$12,500 subsidy for homeowners who are installing them now. Meredith Ballinger will forward the homeowners the information about this subsidy. John Cumbler moved to approve this Notice of Intent with the Conditions that the narrative and site plan language be corrected, that a silt fence be added to the erosion prevention marking the Limit of Work, and that the homeowners will look into installing an Enhanced Innovative and Alternative system soon, Robert Stewart seconded, Vote: Michael Fisher yes, John Cumbler yes, Robert Stewart yes, Benjamin Fairbank yes, Barbara Brennessel yes, Marty Murphy yes, and Leon Shreves yes, 7-0.

Michael Fisher will be Supervisor.

Douglass, 925 Chequessett Neck Rd, Map 19, Parcel 100, Notice of Intent, install new impervious paving. (Continued to 8/2)

At the request of the applicant, Michael Fisher moved to continue this case until August 2, 2023. Barbara Brennessel seconded, Vote: Michael Fisher yes, John Cumbler yes, Robert Stewart yes, Benjamin Fairbank yes, Barbara Brennessel yes, Marty Murphy yes, and Leon Shreves yes, 7-0.

At 6:24 pm, Michael Fisher moved to close the Public Hearings, Barbara Brennessel seconded, Vote: Michael Fisher yes, John Cumbler yes, Robert Stewart yes, Benjamin Fairbank yes, Barbara Brennessel yes, Marty Murphy yes, and Leon Shreves yes, 7-0.

Respectfully submitted by,
Jennifer Elsensohn, Committee Secretary

Documents:

Farnsworth Request for Determination of Applicability and supporting materials
Johnson/Alford Request for Determination of Applicability and supporting materials
McCloskey Request for Determination of Applicability and supporting materials
Bishop Request for Determination of Applicability and supporting materials
Bross Notice of Intent and supporting materials