

# CITY OF GLOUCESTER

## CONSERVATION COMMISSION

### MINUTES -

WEDNESDAY June 17, 2015 - 7:00 PM  
City Hall, 2<sup>nd</sup> Floor, Kyrouz Auditorium  
Robert Gulla - Chair

**Members Present:** Robert Gulla - Chair, Ann Jo Jackson – Co-Chair, Linda Charpentier, John Feener, Helene Shaw-Kwasie

**Members Absent:** Barry Gradwohl

**Staff Present:** Ken Whittaker - Agent, Karen Shah – Assistant to the Agent, Courtney Karcher – Recording Clerk

Chairman Gulla opened the meeting at 7:00 PM

**I. 1-5 minutes, review of amended, updated or final information, status reviews, modifications, signing decisions etc.**

**Discussion of Proposed Plan Changes and Conditions associated with 82 Hesperus Avenue – MassDEP #28-2389:** Submitted by Joe Amicone to install an in ground swimming pool, deck and associated landscaping.

**Presenter:** Bob Griffin, Griffin Engineering Group, LLC, 100 Cummings Ctr. Ste 222G, Beverly, MA

Mr. Griffin stated the proposed rain garden would be moved 75 ft from the coastal bank, due to a discussion and request by the Commission at the last meeting.

Mr. Whittaker discussed a list of recommended Conditions with the Commission, all agreed upon by the Applicant with the exception of a proposed condition on heavy machinery.

Mr. Griffin proposed there be no limitations regarding heavy equipment due to the scope of work being proposed as well as the construction timeline.

Mr. Feener requested, if the Applicant has to use large heavy machinery, to provide protections as well as address any soil compacting and degradation.

**Conditions:**

1. Blasting at the site should be limited to that necessary to accommodate the pool construction as shown on the approved plan and for the limited purpose of reducing the size of the boulders so that they can be handled

2. Ledge removal for the proposed lot improvements shall be limited to no more than 18 inches below existing grade and shall be accomplished by means other than blasting
3. Proper protection by the Applicant when using heavy machinery to stabilize slope.

**Motion** to approve the project at **82 Hesperus Avenue – MassDEP #28-2389** with the aforementioned conditions made by Ms. Jackson, seconded by Ms. Charpentier, approved unanimously.

**Discussion:** Mr. Feener clarified Condition #3 is to be followed during the proposed ledge removal, with no need for the same protection during the construction of the rain garden, etc.

**Review of Revised Planting Plan for Lanes Cove Fish Shack Renovation Project:** Submitted by the City of Gloucester to make landscaping modifications and install paving materials at the Fish Shack area at Lanes Cove.

Mr. Feener noted he conducted a site visit with the Applicant to discuss the proposed planting plan. The proposed planting plan, although staying the same size, has been revised to reduce water velocity and erosion, and to recognize native plantings and their proper pruning. He considers it a good plan.

Mr. Whittaker requested the Commission not vote on the issue due to a miscommunication with the Applicant resulting in the proposed project not being filed with the Department of Environmental Protection. Mr. Whittaker will follow-up with the Applicant.

## **II. PUBLIC COMMENT: None**

## **III. MINUTES REVIEW:**

**Motion** to approve the Meeting Minutes from **May 20, 2015** made by Ms. Jackson, seconded by Ms. Charpentier, approved unanimously.

**Motion** to approve the Meeting Minutes from **June 3, 2015** made by Ms. Shaw – Kwasi, seconded by Ms. Jackson, approved unanimously.

## **IV. Block 1\* Continued Projects**

- 1) **Continued NOI: 644 Essex Avenue – MassDEP #28-2367:** Submitted by Roger LeBlanc (Represented by Wetlands and Land Management Inc.) for the

construction of a duplex, driveway, utility installation, grading, landscaping and retaining walls (Map 237, Lot 109 and a portion of 4).

Application was previously continued to July 15, 2015 on June 3, 2015

- 2) **Continued NOI: 154 Wheeler Street MassDEP #28-2387:** Submitted by Gateway Consultants for the installation of a pier/seasonal float in the Annisquam River (Map 100 Lot 14).

**Presenter:** Richard Nysten - LDNLLP, 10 Post Office Square, Boston, MA

Mr. Nysten reviewed the proposed extension of a pier on a coastal beach and addressed the concern regarding shellfish habitat. He noted the Shellfish Constable had filed a letter stating his concerns with the proposed project, which caused the Applicant to hire Woods Hole Group to conduct a shellfish survey and provide a report

Mr. Nysten stated, since the last meeting with the Commission in May, the proposed plan has been revised to elevate the proposed pier 1 foot to address a Chapter 91 issue.

Mr. Nysten noted the performance standards state there is to be no significant adverse effect, versus no effect at all. Mr. Feener noted the area may be considered Riverfront Area and if so there is a requirement that there be no better alternative. He questioned Mr. Nysten as to why the proposed project is a better alternative.

Mr. Nysten stated by extending the pier, less grounding of boats would occur, causing less impact on shellfish habitat.

Mr. Gulla requested the Applicant file a detailed alternative analysis as well as a detailed riverfront analysis. He noted the Commission would be awaiting the Shellfish Constable's review and comments before moving forward.

**Presenter:** Leslie Field – Woods Hole Group, Coastal Engineering and Environmental Consulting Firm, 81 Technology Park Drive, East Falmouth, Ma

Ms. Field presented a report authored by Woods Hole Group and filed with the Agent in a June 10, 2015 letter.

Ms. Field noted a shellfish biologist from Woods Hole Group conducted a shellfish survey at the site on May 14, 2015. The biologist sampled along three transects at 10-foot intervals, with 30 samples taken in total. Samples showed moderate density of adult soft shell clams with 2-3 species per sample. Therefore the area was classified as a good shellfish habitat with moderate density of shellfish. There was a higher

concentration of shellfish landward of the float.

Ms. Field stated the biologist's report concluded with the statement that the risk of long term harm to the local shellfish resource due to the proposed pier is most likely negligible. It was also noted, in some areas where localized disturbances of water flow occur because of pilings or piers, the area may be conducive to the setting of shellfish.

Mr. Gulla questioned the impact of additional of concreted structures versus the offset of a potential minor benefit.

Ms. Field noted Woods Hole Group, during a literature review, did not find any studies that showed an adverse effect of piers on shellfish habitats. She noted the proposed project would remove 6 square feet of shellfish habitat from the resource.

Ms. Field presented a report filed on June 12, 2015 wherein Woods Hole Group reviewed the proposed project for compliance of performance standards in regard to resource areas. The two areas reviewed were coastal beach (tidal flat) and land containing shellfish.

Ms. Field stated in terms of the coastal beach it was concluded the proposed project would not have adverse effects by increasing erosion, decreasing volume or changing the form of the coastal beach. It was also concluded that by moving the float seaward the potential impacts on the salt marsh would decrease.

Ms. Field stated in terms of land containing shellfish it was concluded the proposed project would not have adverse effects due to minimal water flow disturbances with potential for positive effect on settling of shellfish. Ms. Field noted float stops (i.e. stand-offs) were added to the proposed float to address the potential compacting of sediment. She also mentioned by moving the structures seaward the direct impact of boats coming and going on the shellfish habitat would lessen.

Mr. Gulla requested clarification that Woods Hole Group concludes the proposed project would be a better option than what currently exists. Ms. Fields confirmed.

Mr. Gulla questioned Mr. Nylén in regard to potential flood elevation and storm damage in regard to the proposed pier. Mr. Nylén noted the gangway and float would be seasonal, while the pier would be permanently pinned to rock. Mr. Gulla noted his concern with breakage of an aluminum structure during ice floats and requested the Applicant address storm damage prevention.

Mr. Feener and Mr. Gulla questioned Ms. Fields in regard to potential fluctuation in shellfish habitat over a 5-year period. Ms. Fields agrees that

shellfish habitat can indeed fluctuate. He also noted installation of standoff post bases on the existing structure would also create space between the structure and the shellfish habitat.

Mr. Feener questioned Mr. Nylen on intensity of use of the pier and float in regard to the number of boats intended. Mr. Nylen noted the float would stay the same size, 10ft x 15ft, which is smaller than those usually approved by the Commission and would accommodate the two boats owned by the Applicant.

**Public Comment:**

**Ginny Dillon** – 156 Wheeler Street, Gloucester, MA

Ms. Dylan, an abutter to the Applicant, noted her family has lived on Wheelers Point since the 1930s. She mentioned the changing habitat and environment on Wheelers Point, in particular the severe winters, which routinely cause damage to structures. She stated she is not opposed to the Applicant having a dock, but is concerned with a permanent structure and the environmental and safety issues it may cause.

**Kevin and Emily O'Malley** – 98 Wheeler Street, Gloucester, MA

Mr. O'Malley noted Mrs. O'Malley's family has owned their property since 1946 and they are year round residents. The O'Malley's filed photographs with the Agent showing clambers on the Applicants property. Mr. O'Malley discussed the community use of Wheeler's Point and stated the proposed project, which they are against, would have negative community and environmental effects.

**David Flaherty** – 143 Wheeler Street, Gloucester, MA

Mr. Flaherty noted he has lived on Wheelers Point since 1969. Mr. Flaherty stated his concern regarding changes to the low tide clam flat at end of the Point. He noted a conversation with former Shellfish Constable Stubby Knowles who expressed the importance of this flat. Mr. Flaherty stated the increase of mud moorings or piers would be detrimental not only to shellfish but to sand crabs, periwinkles, crabs, shrimp, minnows, etc. –

**Steve Dexter** - 162 Wheeler Street, Gloucester, MA

Mr. Dexter noted he grew up on Wheeler Street and he is against the proposed project. He stated he witnessed two men digging a gully on the beach on the Applicants property that has since caused erosion. Mr. Dexter filed photographs with the Agent of the area. He noted that because the float would be on the mud flat most of the time, he could see no added benefit to the Applicant.

**Tom Dexter** – 107 Wheeler Street, Gloucester, MA

Mr. Dexter questioned the number of boats to be parked on the proposed pier and if there is a way to enforce a limit on boats. He noted the

mentioned intent to dock was for the existing two boats only, and therefore questioned the need for the proposed extension at all. Mr. Dexter stated his opposing to the project.

**Liz Levon** - 109 Wheeler Street, Gloucester, MA

Ms. Levon noted her residence is a summer home and she has been before the Commission in the past. She noted her project required extensive mitigation, which was completed and then some. Ms. Levon stated her concern with the proposed project and feels there must be a better alternative or the gangway and float pier should stay as it is.

**Dawn Dexter** - 162 Wheeler Street, Gloucester, MA

Mrs. Dexter stated her opposition to the proposed project. She noted she couldn't see a gain in the proposed project if the float would still be on the mud. Mrs. Dexter stated she is not against property owners having piers, but is concerned with encroachment.

**Julie Tellameran** - 32 Riverside Road, Gloucester, MA

Ms. Tellameran stated her family has been on Wheelers Point for the last 75 years. She noted she has seen mussel beds disappear as well as eelgrass, marsh erosion. Ms. Tellameran stated her concern with increased boat traffic in the area, which she described as currently treacherous. She noted her concern with the environmental impacts of the proposed project and urged the Commission to seek alternatives.

**Peter Jones** – 145 Wheeler Street, Gloucester, MA

Mr. Jones stated he has lived on Wheeler Street for 20 years and is an abutter to the Applicant. Mr. Jones summarized an e-mail filed with the Agent wherein he cited performance standards for salt marshes and noted the adverse effect the proposed project would have. Mr. Jones commented on the Woods Hole Group report noting he believed the size of the survey was small and the report was biased. He urged the Commission to rely on local authorities comments.

**Christopher Ramsden** - 9 Orchard Way, Gloucester, MA

Mr. Ramsden stated his concern with the proposed project moving the float and beached boats directly onto the active clam flat.

**Jim Bordinaro** - 126 Wheeler Street, Gloucester, MA

Mr. Bordinaro stated his family has lived on Wheeler Street since the early 1950s. Mr. Bordinaro questioned when the clam flat was last clammed prior to the survey, as this would have impacted the survey numbers. He commented on the watersheet on the Applicants property and that certain families on the Point have deeded access to this as well. He noted the proposed project would force boat traffic over the salt marsh.

**Dawn Dexter** - 162 Wheeler Street, Gloucester, MA

Mrs. Dexter questioned the comment by Woods Hole Group regarding studies showing no adverse effects of piers on clam flats.

**Robert Stewart, Ward IV Councilor** - 20 Leonard Street, Gloucester, MA  
Mr. Stewart requested the opposing parties have an opportunity to have the Woods Hole Group report examined by an expert of their choosing.

Mr. Gulla suggested the opposing parties submit their report in a timely fashion – one month was agreed upon - in time for July 15, 2015 meeting.

**Public Comment** suspended

Ms. Field addressed comments on literature sources, stating Woods Hole Group did find studies that evaluated effects of piers on shellfish habitat. They did not find any showing adverse effects. Ms. Field stated the report was based on a completely un-biased shellfish study. Woods Hole Group used methodology used in other cities (Gloucester has no standard methodology) that has been accepted by other Conservation Commissions. She noted, when questioned by Mr. Gulla, she has been with the company 25 years. They review and report on ten to twelve similar applications a year, with a third resulting in a report of adverse effects.

Mr. Gulla requested Ms. Field forward some similar reports for the Commission to review.

Mr. Gulla noted to Mr. Nylan to consider mitigation, the discussion in regard to boat and foot traffic being re-routed on the property as a result of the proposed project, storm damage prevention, an engineering statement, flood elevation, and an alternatives analysis.

Mr. Whittaker requested a literature listing of the studies from the technical literature.

**Motion** to continue the project at **154 Wheeler Street MassDEP #28-2387** to July 15, 2015 made by Mr. Feener, seconded by Ms. Charpentier, approved unanimously. Ms. Shaw – Kwasié abstained.

- C) Continued NOI: 59 Riverview Road MassDEP#28-2386:** Submitted by Bruce Ross to reconstruct retaining wall and revetment slope on bank of Annisquam River, also repair pool and decking (Map 94 Lot 71).

**Motion** to continue the project at **59 Riverview Road MassDEP#28-2386** to July 15, 2015 made by Ms. Shaw- Kwasié, seconded by Ms. Jackson, approved unanimously.

- D) Continued New NOI: 510 Washington Street MassDEP# 28-2395:** Submitted by Lonakilty Realty Trust, Maureen Cahill, for an after the fact request to rebuild a pier and install an attached gangway and float at 508/510 Washington Street (Map 110 Lot 2).

**Motion** to continue the project at **510 Washington Street MassDEP#28-2395** to July 15, 2015 made by Ms. Jackson, seconded by Ms. Charpentier, approved unanimously.

- E) Continued RDA: 6 Plum Court #RDA1446:** Submitted by Carmelina Procaccini for re-setting of boulders on stacked sea wall and soil addition at 6 Plum Court in Gloucester (Map 140 Lot 9).

**Presenter:** Carmelina Procaccini, Steve Oransky, 6 Plum Court, Gloucester, MA

Mr. Oransky reviewed the proposed project to re-establish the stone banking along the shore of his property (the work zone is 30 linear feet). The sea wall has been damaged by winter weather, with large stones becoming dislodged. He noted there are existing large boulders and stones, as well as new stones that would require machinery to move into place. Mr. Polansky stated they would like to construct the wall to the height and manner of the abutting property for continuity and contiguous natural appearance. The project proposes adding fill with filter fabric, and sod over the area to prevent erosion.

Mr. Whittaker noted the coastal bank is far away from the proposed sea wall area. It is an extensive distance to the water, and water only reaches the sea wall in severe storm conditions.

Mr. Whittaker and the Commission discussed conditioning the use of heavy machinery on the proposed project – in line with similar projects of the same nature, i.e. plywood, delineating track of equipment used, replanting, filter fabric, not compounding or packing soil, machinery on lawn only, and stones not brought back up unless unusual circumstances arise

**Public Comment:**

**Jane Brown** – 5 Plum Court, Gloucester, MA

Ms. Brown stated her concern with encroachment toward the river.

Mr. Gulla noted further encroachment into the resource is illegal.

Mr. Whittaker recommended the Applicant mark the outside line of the proposed work to show there is no encroachment, and pictures would be filed.

**Laura Brown** – 5 Plum Court, Gloucester, MA

Ms. Brown stated they have fixed their sea wall twice, which was approved by the Commission only after severe storms. She stated the proposed project is not re-storing what has existed, rather it is building up the wall to a level that did not exist.

**Public Comment** closed

Mr. Gulla noted the proposed project must be restoration as opposed to expansion.

Conditions:

1. Applicant will stake out line of proposed work, and Mr. Whittaker will inspect the site for encroachment.
2. Mr. Whittaker will supply a list of conditions based on a similar approved project.

**Motion** for a negative determination for the project at **6 Plum Court #RDA1446** made by Ms. Jackson, seconded by Ms. Kwasié - Shaw, approved unanimously.

**V. Block II\* NEW Projects: NONE**

**VII. OTHER COMMISSION BUSINESS** - Requests for Letter Permits/Modifications, etc.

- **114 Wheeler Street – Signature Page for Extension**
- **Wise Place parking matter (postponed at request of Agent)**

Mr. Whittaker noted he has reached out to a number of city entities and looked into the zoning of the area. He is awaiting input from the Traffic Committee. Mr. Whittaker received permission from both parties involved to postpone discussion.

- **115 East Main Street - Montagnino “After the Fact” DPA permitting matter**

Mr. Whittaker reviewed the property has history of being allowed a general permit under the Harbormaster for replacement of 10 pilings a year. The boundary of DPA has changed and the property is no longer eligible. Mr. Whittaker noted a timing issue due to availability of the contractor and mentioned to the Applicant the Commission may be comfortable issuing

an “after the fact” permit under the same conditions as the old general permit.

**Presenter:**

Chad Ketchopoulos - 33 Bennet Street, Gloucester, MA

Mr. Ketchopoulos questioned once the permit is in place, the proper procedure for continued maintenance.

Mr. Gulla stated the Applicant may come in front of the Commission with an operations and management plan.

- **Wellspring House – signature on CR**

**V. AGENT’S REPORT ON VIOLATIONS:**

- **Wheeler Street non-compliance matters**

Mr. Whittaker stated there is an open lot at 130 Wheeler Street that appears to have had some clearing and he is reaching out to the owner.

Mr. Whittaker stated there is a recently approved project on Wheeler Street that was conditioned with permeable pavers, that looks like asphalt pavement, has been installed. He is reaching out to the owner.

**VIII. CERTIFICATES OF COMPLIANCE**

- **227 Atlantic Road**

Mr. Whittaker noted the existing order of conditions with permanent restrictions on work in wetlands buffer zone will be closed out as incomplete and the Applicant will apply for a new order with new conditions. No vote

- **18 Gale Road**

Mr. Whittaker recommended signature.

- **30 Sleepy Hollow Road**

Mr. Whittaker recommended signature.

- **14 Samuel Riggs Circle**

Mr. Whittaker recommended signature.

- **16 Cambridge Street**

Mr. Whittaker noted the approved project never started and needs to be closed.

**Motion** for approval of Certificates of Compliance for **18 Gale Road, 30 Sleepy Hollow Road, 14 Samuel Riggs Circle, and 16 Cambridge Street** made by Ms. Charpentier, seconded by Ms. Jackson, approved unanimously.

There being no further business the Chair adjourned the meeting at 9:00 PM