

## North River Commission

MA Dept of Conservation & Recreation – Hanover, Hanson, Marshfield, Norwell, Pembroke & Scituate  
188 Broadway, PO Box 760, Hanover, MA 02339 Office Hours 9am – 1pm, Tuesday & Thursday,  
Phone: 781-659-7411 Website: [www.northrivercommission.net](http://www.northrivercommission.net) Email: [northrivercom@gmail.com](mailto:northrivercom@gmail.com)

### Minutes August 27, 2020 - Meeting #550

(Meeting conducted via Zoom Video Conferencing)

Present: Hanover, Dan Jones (M), Hanover, John O'Leary (A), Hanson, Jennifer Heine (M), Marshfield, Chris Head (M), Marshfield, Maryanne Leonard (A), Pembroke, Bill Boulter (M), Norwell, Tim Simpson (M), Norwell, Robert Molla (A), Scituate, Adria Gallagher (A)  
Not Attending: Pembroke, Gino Fellini (A), Scituate, Joseph Norton(M),

#### **7:00 - Call to Order**

1. Minutes approved for July 23, 2020 meeting.
2. Administrators Report - Administrator Gary Wolcott(GW) reported on and the Commission discussed...
  - a. The DCR Stewardship Council and their upcoming meeting and what the Commission's strategy should be regarding addressing the Council and where ongoing efforts to secure a Fiscal 2021 budget stood. Mr. Head and Mr. O'Leary described their efforts, Mr. Head in getting DCR to reimburse NRC for expenses after June 30, 2020 and Mr. O'Leary in communications with Plymouth County Commission Chairman Daniel Pallotta. After the scheduled hearings the Commission voted to hold a meeting September 2, 2020 to further discuss the Stewardship Council Meeting and budget efforts and to invite NSRWA Executive Director Samantha Woods and Corridor affiliated Legislators to participate in said meeting.

**7:15 - Request for Determination - 1327 Union Street, Marshfield** Mary Ann & Tom Digan- Applicants - Paul Mirabito, Ross Engineering - Representative - Mr. Mirabito presented a plan for a proposed inground pool, patio, cabana and fence. Mr. Mirabito described the project and its location in relation to the Natural Bank. Mr. Head asked for clarification of the structure's length. Mr. Mirabito answered the structure was 20' in length parallel to the river and not visible from the river due to the existing topography. Mr. Jones believes that the pool, fence, cabana are all considered part of the structure and should be considered a second principal structure that is 100' wide as viewed from the river and not an accessory structure. Ms. Leonard also asked for clarification on the prevailing view and the nature of the structure, principal vs. accessory. Mr. Jones indicated that the structure does meet the required setback for a principal structure. Mr. Mirabito reiterated the distance setbacks were all greater than the required amount in any direction. Mr. Boulter confirmed that the pool would be very hard to see, it at all, from the river. Mr. Mirabito confirmed that the proposed fence is a 4' high, black wrought iron fence. Mr. Molla does not believe that the project is a principal structure as the pool is not a structure in which the principal use of the lot is carried out as defined in the Protective Order. Ms. Heine cited the design standards of a Accessory Structure which requires treating a structure as principal if beyond certain dimensions. Thus it was agreed that though the structure as defined by the Order may be an Accessory Structure, the Order further provides that when interpreting design standards, Accessory Structures beyond the dimensions cited in the Order (greater than 20' parallel to the river) should be regulated by the provisions for the placement of Principal Structures. A motion was made and seconded and it was unanimously determined that the project as submitted and described was an "Allowed Use" under the North River Protective Act. Plans referenced: "North River Commission Site Plan for Proposed Accessory Structure at 1327 Union Street in Marshfield, Mass., Scale: As Noted, Dated: August 5, 2020, Ross Engineering Company Inc, Paul Joseph Mirabito, Registered Land Surveyor"; "Proposed Pool House for May Ann & Tom Digan, 1327 Union Street, Marshfield, MA, Scale: As Noted, Dated: August 18, 2020, William F. Lee, AIA Architects and Associates."

**7:30 - Informal Discussion - 142 River Road, Hanover - Heather O'Connor & Tim Rowland - Homeowners**  
- Mr. Boulter reviewed how the project came to the NRC's attention, that an abutter had called him and indicated that there was work on a dock being done at night. Mr. Boulter visited the site the next day and received information from the abutter that the dock and float that was previously there was replaced. Mr. Boulter reviewed and determined that no permits had been pulled with any agency and that the new dock/float structure was larger than the previous one. Ms. O'Connor is under the impression that the dock has been permitted. She relayed that a storm damaged the float and that it needed repair and that upon review of the Protective Act she believes that a repair to the existing structure did not need additional permitting. Ms. O'Connor believes the Act is unclear about resident's obligations in this type of situation and indicated that the project work had been occurring all day, prior to the evening work and that the contractor needed to finish the work that day which was why the work continued at night. Mr. Jones explained that there are many docks in Hanover that consist of a simple low-profile ramp and float that have not received much attention from DEP Waterways or Hanover Conservation Commission that perhaps should have and that the North River Commission becomes particularly interested when the structure involves piles being driven into the ground. Mr. Jones explained that the float at 142 River Road is bigger than most of the others in the area that have gone through the permitting process with DEP Waterways and the NRC. Mr. O'Leary asked that the Commission advise the resident on what they need to get permitted correctly. Mr. Head suggests that an approval with the state is a good first step. Mr. Boulter stated that the complainant indicated the project is relocated from its original location, Ms. O'Connor and Mr. Rowland indicate that the project has not been relocated, merely repaired in the exact location of the previous structure and that the metal ramp that had been damaged had been replaced with a wooden ramp. Mr. Boulter explained that what was originally there may not have been permissible through no fault of the current residents but that once a complaint had been made the Commission was bound to review it. Mr. Jones stated the size of the float is the biggest issue. Mr. O'Leary suggests a plan should be presented and a reduction in the float is desirable. Ms. Leonard asked whether a state filing is necessary. Mr. Jones has been communicating with DEP Waterways and that it is hard to pin them down on what needed permitting which was seconded by the Administrator who thinks the State's instructions on permitting are very difficult to understand. Mr. Boulter thinks that floats and gangways that are removable do not need permitting with the State. Mr. Molla agrees with Mr. Boulter. Mr. Head asked for recommendations on how Ms. O'Connor and Mr. Rowland should proceed. Mr. Molla suggests that the resident file an application with the NRC for what is there so that it is on the record. Mr. Boulter recommends an application with the town as well. Ms. O'Connor states that the Town is willing to permit what the NRC approves. Mr. O'Leary suggested downsizing the float and submitting a plan that shows this. Ms. O'Connor pointed out that there are larger floats than the one they have and that they can't find any information in the Protective Act about size requirements for the float. Mr. Rowland stated that the float is the same size as the previous one. Mr. Jones said that the previous float is now downriver at an abutting property and is smaller than the 20' x 10' float that is currently at the resident's property. Mr. Jones stated that the larger float described by Ms. O'Connor is a non-permanent neighborhood float, that is not connected to a dock, like the resident's, that is a permanent structure. Ms. O'Connor asked if everyone else on the river in a similar situation would be asked to permit an existing dock. Ms. O'Connor believes that the dock permitting was included in the closing documentation for the sale of the house when they bought it. Mr. Head said if these documents could be found they would be helpful. Mr. Rowland asked again about how the size determination for floats is made. Mr. Head indicated that it is typically determined by the limitation on structures extending into the river no more than 10 feet and that larger floats are usually community use floats that include deed restrictions on the lots that use it preventing them from building their own dock/floats. Mr. Head asked the resident to come back with a plan and Request for Determination and any real estate closing documents referencing permitting.

**7:45 - Informal Discussion - 25 Washington Street, Hanover - Brian Burns & Matthew Lawless - Homeowners -** The Administrator reviewed the file, explaining that a site visit to review work within the 100' setback to the Natural Bank was scheduled at the late February 2020 meeting but cancelled due to Covid 19 social distancing recommendations. Subsequently, the NRC was informed by the Hanover Conservation Commission that the residents were selling the house. The NRC corresponded to Mr. Burns and Mr. Lawless that there were outstanding issues with the Commission that should be completed before the property changed hands. The Administrator displayed a plan from the file that showed where the 100' setback line was. Mr. Burns stated that he believed the issue was the construction of a post and rail fence that was at the top of a steep fence and some complaints about vegetative cutting made to the Conservation Commission that he stated are untrue and that Mr. Jones agrees probably didn't happen. Mr. Jones feels the fence described is probably not viewable from the river. Mr. Burns described the Conservation Commission's visit to the site and issuance of a permit for the work they had done. Mr. Burns is willing to file a Special Permit for the fence. Mr. O'Leary believes that the fence would not have been permitted if one had been sought and asked Mr. Burns about the possibility of removing the fence. Mr. Burns questioned why it would not be permitted, that the fence was a safety precaution to prevent falling down the slope and that he would be reluctant to remove the fence. Mr. O'Leary stated that the NRC had to be consistent in enforcing the Protective Act and not allow activity to some that was denied others. Mr. Burns described other properties where activity occurred within 100' of the Natural Bank and that he believed the work that had been done to be minimal and caused no harm. Mr. Head indicated that the issue wasn't amount of harm but whether the activity was an Allowed Use per the Protective Act. Mr. Jones stated that the Special Permit should have been sought before the construction of the fence and long before a real estate closing on the property since some aspects of the Special Permit process, like abutter notification and advertising, were time dependent and not subject to modification, no matter the urgency. He further described how a pre-existing non-conforming house allowed for work inside the 100' to a greater degree than new construction on undeveloped land, such as a fence for safety purposes, and that the current situation was one of the things that the Special Permit process addresses. Mr. Molla suggests the Special Permit be applied for and that the fence is for safety and matches the nature of the house. Mr. O'Leary questioned the nature of the black iron fence across the front of the property and how it could be described as a safety measure. Mr. Burns questioned the motives of the Commission and suggested some sort of personal vendetta against him and Mr. Lawless. Several members of the Commission attempted to explain to Mr. Burns, to no avail, the idea of the pre-existing non-conforming nature of the property and the requirement that a Special Permit be submitted for approval of the work that had been discussed. Mr. Burns then became verbally and explicitly abusive to the Commission and left the meeting. The Commission continued discussion of the matter. The Commission discussed what measures they could take to ensure that the Special Permit is filed. The Commission settled on issuing a Cease & Desist Order. Mr. Boulter moved that a Cease & Desist Order be issued against the property. Ms. Leonard seconded. The Commission unanimously voted to issue the Cease & Desist Order against 25 Washington Street, Hanover. Plan/Material referenced: Photographs of the property submitted for the February 2020 North River Commission meeting and August 2020 photographs submitted for the August 2020 North River Commission meeting.

**9:00 - Informal Discussion - DCR Budget-Stewardship Council -** The members discussed approaches to a DCR Stewardship Council Meeting on September 10 and the need to coordinate with our local legislators about attending and speaking on our behalf. It was agreed that a NRC meeting on September 2, 2020 was warranted to discuss strategies regarding the Stewardship Council Meeting and that the legislators should be invited to attend. A motion was made, seconded and unanimously agreed upon to have a September 2, 2020 meeting.

Meeting adjourned 9:00 pm

Gary Wolcott, Administrator