

North River Commission

Representing the Towns of – Hanover, Hanson, Marshfield, Norwell, Pembroke & Scituate
PO Box 760, Hanover, MA 02339

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Minutes January 26, 2023 - Meeting #581

Present: Hanover, Daniel Jones (M), Hanover, Andrew Butler (A), Hanson, Jennifer Heine (M), Hanson, Donna Frehill (A), Marshfield, Maryanne Leonard (M), Norwell, Tim Simpson (M), Norwell, Robert Molla (A), Pembroke, Gino Fellini (A), Scituate, Adria Gallagher (A)
Attending Remotely: Pembroke, Bill Boulter (M)
Not Attending: Marshfield, Mike Dimeo (A)

7:00 - Call to Order

7:00 - Request for Determination - 88 Old Bridge Road, Hanover - Tyack

Peter Tyack, property owner of 88 Old Bridge Road, Hanover presented a project to refurbish the interior of his house, to install new exterior windows on his existing dwelling and to re-plank an existing deck. Mr. Tyack is updating the windows to increase weather proofing of the structure and re-planking the deck as it is in a deteriorating condition. He distributed copies of the architectural plans for the project, concentrating on the elevation views that were visible from the river. He understands that the Commission reviews projects within the North River Scenic Corridor, particularly ones within 100 feet of the Natural Bank, as here, and asks that the Commission determine that the project he is proposing is an "Allowed Use." The Commission asked for confirmation that no addition or increase to the existing footprint of the structure was being proposed. Mr. Tyack indicated that no addition was proposed, only interior restoration and replacement windows. The Commission further asked whether the size of the existing deck was being increased. Mr. Tyack replied that no addition was proposed, only re-planking of the existing deck in its current footprint. A motion was made and seconded to determine that the project as presented was an Allowed Use. Roll Call Vote: Mr. Jones - Yes, Ms. Heine - Yes, Ms. Leonard - Yes, Mr. Simpson - Yes, Mr. Boulter - Yes, Ms. Gallagher - Yes.

Plans/Documents referenced: "Tyack Residence, 88 Old Bridge Rd, Hanover, Existing & New Rear Elevation-Opt 1, SK-41, Dated: January 27, 2022, Scale: $\frac{1}{4}$ "=1'-0", C & J Katz Studio."

7:15 - Request for Determination - 102 River Road, Hanover - Callanan

Nancy Callanan, property owner of 102 River Road, Hanover presented a plan for the construction of a garage. Ms. Callanan had previously received a Determination that a swimming pool in the location of the proposed garage was an "Allowed Use." She has revised that plan, eliminating the inground pool and accessories, and now proposes a 24' long x 16' wide garage in a similar location. Ms. Callanan reviewed the plan, indicating the location of the Natural Bank and the 100 ft. setback to the Natural Bank. She distributed copies of the plan, an architectural schematic of the garage and photographs of the existing conditions on the site to the Commission members. The members reviewed the information. Members asked what was the height of the proposed structure. Ms. Callanan indicated that the height of the structure is 14 ft. Mr. Jones and other members are concerned about the configuration of the structure and its visual impact. As shown on the plan it is configured in a way that is greater than the 20 ft. parallel to the river that is typically allowed. The Commission would like to see the structure rotated so that the shorter side of the structure is more parallel to the river so that its length is less than 20 ft. The members suggested

that the plan be revised to propose a 20 ft or less visual impact parallel to the river. Ms. Callanan agreed to have her engineer revise the plan as suggested by the Commission and is available to return for the February 23, 2023 meeting. A motion was made and seconded to continue the hearing until February 23, 2023. Roll Call Vote: Mr. Jones - Yes, Ms. Heine - Yes, Ms. Leonard - Yes, Mr. Simpson - Yes, Mr. Boulter - Yes, Ms. Gallagher - Yes.

Plans/Documents referenced: Engineering: "Site Plan, 102 River Road, Assessors Map 66 Lot 31, Hanover, Massachusetts, Dated: July 12, 2022, Last Revision Dated: 1/11/23, Scale: As Noted, Merrill Engineers and Land Surveyors, Dana Matthew Altobello, P.E."; Architectural: Post Woodworking Typical Shed Design, Dated: June 11, 2020, Scale: Not to Scale, Gregsak & Sons, Inc., Engineering, Architecture & Construction Management"; Applicant Site Photos

7:30 - Request to Amend Special Permit - 14 Damon's Point Road, Marshfield - McCarthy

Paul Gunn of Morse Engineering presented plans on behalf of the applicant Brendon McCarthy for a proposed sun room to be located on a deck that had been approved by Special Permit in November, 2021. Mr. Gunn distributed engineering and architectural plans of the site for the Commission's review. He reviewed the Site Plan, indicating the existing conditions on the site, the delineated Natural Bank, the setbacks to the bank and the proposed construction. He noted the location of the approved deck and the proposed location of the sun room on the deck. He further reviewed the architectural plans, showing the proposed river facing elevation. The Commission asked if the proposed sun room would increase the elevation of the structure as seen from the river. Mr. Gunn indicated that it would not, that the visual impact of the proposed sun room, including its roof, was contained within the parameters of the existing dwelling. Several members noted that the plans indicated a second chimney was proposed as part of the sun room. Mr. Gunn explained that the sun room included a fireplace and that the proposed chimney was lower than the 35 ft limitation for structure height. Mr. Jones noted that the reconfiguration to account for the sun room might increase the length of the structure as seen from the river relative to the approved plan that did not include the sun room. He agrees that the increase would be nominal and was certainly not something that would prevent an approval of the plans but would like the revised record plans to reflect all the differences from the earlier approved plan. Mr. Gunn is amenable to revising the plan to include the requested information. A motion was made and seconded to approve the Request to Amend Special Permit 4 of 2021 provided the requested information was included on a revised plan. Roll Call Vote: Mr. Jones - Yes, Ms. Heine - Yes, Ms. Leonard - Yes, Mr. Simpson - Yes, Mr. Boulter - Yes, Ms. Gallagher - Yes.

Plans/Documents referenced: "Plan to Accompany NRC Filing, 14 Damon's Point Road, Marshfield, Massachusetts, Dated: 9/21/21, Last Revision dated 12/29/22, Scale: As Noted, Morse Engineering Co., Inc., Jeffrey M. Hassett, P.E.; McCarthy Residence, 14 Damon's Point Road, Marshfield, MA 02050, Proposed Elevations, A2-0, Last Revision Dated: 11-28-22, Scale: $\frac{1}{4}$ "=1'-0", Alissa Jones design studio." Approved Plan: "Plan to Accompany NRC Filing, 14 Damon's Point Road, Marshfield, Massachusetts, Dated: 9/21/21, Last Revision dated 1/27/2023, Scale: As Noted, Morse Engineering Co., Inc., Jeffrey M. Hassett, P.E."

7:45 - Special Permit Application - 67 Collier Road, Scituate - Cahill

Applicants David and Maria Cahill appeared for an after-the-fact Special Permit Application for the construction of a boulder retaining wall. They reviewed the timeline of the project and presented Site and Asbuilt plans for the location, a Narrative in support of the Application and a supporting Memorandum by a coastal geologist. The Applicants contend that the boulder wall as constructed is an integral part of the overall house construction and landscaping project as it serves to protect the wetland resource areas and the interests of the North River Commission. They detailed how they had received permission from the Zoning Board to rebuild the dwelling closer to the streetline than the previous dwelling to reduce the

setback to the Natural Bank and to reduce the amount of construction on the slope. They state that it has since been determined that a boulder retaining wall is a necessary part of their project to raze/rebuild the dwelling. They suggest that the boulder wall was required for the stability of, and protection of, the deck footings. They noted that the footings were located at the edges of the boulder wall. Applicants suggested that the stability required of a second egress from the rear of the house was an additional reason for allowing the wall construction. They believe that the wall will help prevent erosion from upland areas to the downhill slope and natural bank. They indicated the plantings that had been made at the request of the Scituate Conservation Commission (SCC). Further they cited the Scituate Conservation Commission Order of Conditions that allows the homeowner to perform maintenance of the of the area, even beyond the 3-year period of the Order of Conditions, to stabilize the area and prevent soil erosion. They recounted that there had been several storms in the time since they bought the house, including four nor'easters and flooding had never come up to the location of the boulder wall. Mr. Molla asked if there was yet any decision from the Conservation Commission. Applicants indicated that they had been in communication with the Conservation Commission and were holding off on meeting with them until they were finished with North River Commission. Mr. Boulter asked if the applicants received any of the other state or federal approvals that he believes are necessary for this kind of project. Mr. Jones stated that CZM and some other agencies often defer to local conservation commissions and allow them to decide what can be permitted in their municipality. Mr. Jones noted the performance standards listed in Section 6 (Special Permit Uses) of the Protective Order and Item 8 of the Special Permit Application, particularly Numbers 2(Harmful alteration of wetlands), number 4 (Danger of increased flood damage or obstruction of flood flow) and number 11 (Damage to private and public property.) He does not agree with the responses of "None" to these items. Mr. Jones feels that the wall was built in an AE Zone and shouldn't have been, that the wall will obstruct floodwater flows and that the wall will deflect floodwaters onto adjacent properties. Applicants state that the memorandum from coastal geologist Mr. Humphries addressed those issues. Several Commission members noted that the plan included in the original application for Special Permit for razing/rebuilding/enlarging a pre-existing non-conforming structure did not include any patio under or beyond the deck or a boulder retaining wall. Mr. Jones considers that it was a mistake to construct a wall that had not permitted. Others noted that the applicant should have known that construction other than what was permitted in the original Special Permit required additional review by the Commission. Mr. Jones cited several locations in the North River Corridor where similar issues were involved, including Meadowbrook Road, Norwell, where an application was made to construct a boulder retaining wall to support grading for a patio. As the proposed boulder wall would have been a new structure built within the 100' setback to the Natural Bank, the application was denied. On a Hunter Drive, Marshfield project a wall was constructed within the 100' setback and the Commission required that the wall be removed. He also recalled a River Road, Hanover project where a dwelling was approved by Special Permit right at the 100' setback line. The applicant subsequently built a patio inside the setback (closer to the Natural Bank) and was similarly required to have it removed. He noted that the Commission consistently and historically had not approved the construction of new structures within the 100' setback to the Natural Bank. Mr. Jones does not feel that he can support the project. Neither does Ms. Gallagher. Ms. Gallagher noted that the circumstances were unfortunate but that the Commission had a Protective Order that it was their charge to administrate. The homeowners stated that removing the retaining wall would compromise the integrity of

the deck. Mr. Simpson and Ms. Heine asked if the retaining wall was constructed before the deck. The homeowners indicated that it wasn't. It was asked if doesn't that suggest that the deck footings were sufficiently stable without the retaining wall. The applicants maintain that the wall was required to help support the deck footings. It was noted that egress from the rear of the house could be accomplished without the wall. Abutter Annese expressed support for the project. The members of the Commission and the applicants reviewed letters from additional abutters not in attendance. Applicants stated that they did not intentionally run afoul of North River Commission regulations and that they would like to take steps to rectify the situation and bring the project into compliance. They asked if there were suggestions from the Commission for how they could address the issues that had been raised and obtain permitting for the wall. Mr. Jones noted that it might be helpful if there was some feedback from the Conservation Commission. He feels that there are a lot of Coastal Geology/Wetland issues that the Conservation Commission was better suited to address and their determinations on these matters might be valuable and/or dispositive of the matter. He suggested that the NRC could continue the hearing until a later date so that the applicants could meet with the SCC. Applicants indicated that they would aim for the next possible meeting for the SCC. Ms. Leonard suggested a March meeting return of the Applicant so that the applicants could meet with Scituate in the interim. A motion was made and seconded to continue the Special Permit hearing until the March 23 meeting. Mr. Jones voted "Yes", Ms. Heine voted "Yes", Ms. Gallagher voted "Yes", Ms. Leonard voted "Yes", Mr. Simpson voted "Yes" and Mr. Boulter voted "Yes".

Plans/Documents referenced: "North River Commission Special Permit Plan for 67 Collier Road in Scituate, Mass., Scale: 1"=20', Dated: April 12, 2021, Ross Engineering Company, Inc., Paul Joseph Mirabito, P.L.S."; "As-Built Plan for 67 Collier Road in Scituate, Mass., Scale: 1"=20', Dated: October 19, 2022, Ross Engineering Company, Inc., Paul Joseph Mirabito, P.L.S."; Narrative; Environmental Consulting & Restoration, LLC Memorandum; Applicant Photos; Commission Photos dated May 24, 2022."

8:00 - New Business

1. Minutes approved for December 15, 2022 meeting.
2. Administrators Report - Administrator Gary Wolcott (GW) reported on...
 - Off Riverside Drive, Hanover - Approval Letter for Request for Determination filing for observation deck project forwarded to applicant Hanover Open Space Committee.
 - 53 Collier Road, Scituate - Approval Letter for Request for Determination filing for repair of existing wall project forwarded to applicant.
 - Communications with current hearing attendees about their projects and appearing at this meeting.
 - Summary of Fiscal Year 2023 Second Quarter expenses.
 - Report of Tree Cutting on River Road, Hanover - A resident called in with information about tree cutting occurring near the river. Investigation revealed it was cutting of diseased, damaged trees that had been permitted by the Commission.
 - Report of a flagpole suspected to have been constructed along the river bank and tree clearing within the required setback.
 - 34 Turner's Way, Norwell - Inquiry from architect about information on file. Various items forwarded to requester.

- 67 Collier Road, Scituate - Letters from abutters regarding Special Permit Application received.
- 12 Hunter Drive, Marshfield - Received email from owner regarding an ongoing shed project. Previously constructed within the setback to the Natural Bank and subsequently razed by storm damage (falling trees), the shed has been relocated/rebuilt outside the required setback.
- Real Estate transactions in the Corridor - 55 Canoe Club Lane, Pembroke, 60 Canoe Club Lane, Pembroke, 25 Old Landing Road, Pembroke.
- Site Visits - Misty Meadow Road, Pembroke.
- Recent municipal filings of Corridor properties - Projects previously reviewed, currently under review or expected to come under review by the North River Commission. Hanover, Conservation Commission and Planning Board, NSRWA presentation on removal of Luddam's Ford dam, Marshfield, 70 Carolyn Circle, Conservation Commission for shed construction project.

8:15 - General-Old Business-Open Discussion

1. Misty Meadow Road, Pembroke - The Commission received a call about a flagpole located at the edge of the marsh and suspected tree clearing within the setback to the Natural Bank. GW and Mr. Boulter conducted drone operations and recorded some photographs of the area that show the flagpole is not at the marsh's edge but rather some distance setback from the marsh. Mr. Boulter followed up with a site visit and spoke to the property owner. Mr. Boulter and the resident discussed the Protective Order and what some of the restrictions were regarding tree clearing and setbacks to the river. They also discussed the possibility of the homeowners coming in to meet with the Commission informally to review the situation. GW was directed to contact the resident and schedule a meeting.
2. Fiscal Year 2024 Budget Request - Ms. Leonard reminded the Commission that it was nearing the time that the Legislature would need to request funding for the Commission for Fiscal Year 2024. She asked that members contact their local representatives to communicate our need. She directed GW to provide the members with contact information of the Representatives so that they would be able to do so.

Meeting adjourned 8:50 pm

Gary Wolcott, Administrator