

CONSERVATION COMMISSION  
MINUTES  
MARCH 17, 2011

**PRESENT:** Dave Flaherty, Chairman, Ed Hoopes, Hugh March, Gerry Duffy,  
Joan Carr, Tom Durkin and Phil Johnston.

**STAFF:** Bradford L. Hall  
Conservation Administrator

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**REQUESTS FOR DETERMINATION:**

**Tec Associates, Cape Cod Railroad Right of Way Management.**

Brad Hall explained that the railroad flies with us about once a year and it is for the spray and no spray zones. They are the same every year, the wetland delineations stay the same every year and they are exempt under the Act and they have an exemption in the Wetland Regulations regarding the spraying of herbicides as long as they do it according to USDA and Mass. Department of Agriculture approved methods, which they do all the time. Brad stated he has ridden the tracks with the railroad representatives and helped them set up the spray zones, which are still there.

Letter from TEC was read into the minutes.

Hugh March made a motion for a Negative 5 –Joan Carr seconded. Unanimous.

**Berkdale Realty Trust, 238 Pleasant Street, South Yarmouth, MA**

Project is to replace the in ground pool and patio at the above location. Peter Sullivan, Sullivan Engineering, represented the applicants. Mr. Sullivan appeared before the Commission in October informally to discuss the project & general concept. The plan before the Commission reflects the guidelines that were given to him at the October meeting. The hardscape is no closer than 35 feet to the top of the coastal bank and is more than 50 feet back from the mean high water of Bass River. There is also an existing 10 foot natural buffer along the top of the bank.

The Commission all agreed that it looks great and appreciate incorporating there suggestions.

Ed Hoopes made a motion for a Negative 3 – Joan Carr seconded. Unanimous.

**Peter Tobeason, 103 White Cedar Road, West Yarmouth, MA**

To construct a garage and excess driveway at the above location. Dan Ojala, Down Cape Engineering, represented the applicant. There is an existing stone driveway on the property and on the landward side the land would be leveled a bit creating a couple of parking spaces and a 24 x 24 garage. The well will be re-located to be as far as possible from the septic and leaching field. A work limit line will be established along the driveway. A modest vista pruning under the supervision of the Conservation Administrator is requested as well.

Brad Hall recommended a Negative 3.

Ed Hoopes inquired about the three parking areas and Mr. Ojala explained the expansion of the project.

Hugh March made a motion for a Negative 3 – Joan Carr seconded. Unanimous.

Mr. Ojala expressed his thanks to Brad Hall for all his help over the years and that he was a pleasure to work with.

**Diane & George Moudouris, 12 Athens Way, West Yarmouth, MA**

To perform vegetative management at the above location. Mr. & Mrs. Moudouris represented themselves. Ms. Moudouris explained that the property abuts Lewis Pond with a wide buffer that has become overgrown and would like to replant with species that are easier to manage. Initially the property had a 35 foot buffer but is now 45-55 ft. wide. Ms. Moudouris passed photographs showing the site. They would also like to clear some of the underbrush under the direction of the Conservation Administrator.

Brad stated that they will take all the roots out and replace with loam and native species.

Ed Hoopes inquired if the applicants are going to put mulch down as it will help hold things in place. Joan questioned if the mulch would be needed as this is a flat area. Brad felt that it would help keep some of the other invasive from coming back.

Brad Hall recommends a Negative 3.

Joan Carr made a motion for a Negative 3 – Ed Hoopes seconded. Unanimous.

**NOTICE OF INTENT:**

**John & Anne O'Rourke, 53 & 57 Neptune Lane, South Yarmouth, MA**

To repair existing marine bulkhead at the above location. Larry Demers, Cape Cod Docks, represented Mr. O'Rourke and Mr. Yahkind to repair there respective bulkheads,

one is washed out and the other is lacking dead man to support the lower portion. Coastal Engineering did the plan which Mr. Demers summarized how the project would be performed. Mr. O'Rourke has been experiencing a water problem from the elevations of two other dwellings which cause the runoff to go onto Mr. O'Rourke's property.

Chairman Flaherty read correspondence from Marine Fisheries and Waterways into the minutes. Commission all agreed that this is a great project.

Brad Hall recommends we craft an Order of Conditions and continue the hearing for the file number from DEP.

Tom Durkin made a motion to approve with the following conditions: 1-6, 7, 8, 14, 15, 16, 17 and 18. Hugh March seconded. Unanimous.

### **Revised Conservation Commission Fee Schedule:**

A copy of the Public Notice of Proposed Fees was distributed to each Commissioner. The new fee schedule will be effective April 11, 2011. Chairman Flaherty explained to the Commission that the increase in fees was sent out to the newspapers, engineers, consultants, attorneys, e-mail contacts that Brad is in touch with, Selectmen, and Peter Johnson-Staub.

Chairman Flaherty asked Brad how he came to the determination for the proposed fees. Brad met with Karen Greene, Director of Community Development and they surveyed other Commissions on the Cape. Their research brought them to a decision to stay middle of the road. An example is the Town of Sandwich & Dennis charge a \$400.00 extra fee for every Notice of Intent they receive. We would only charge this if we had a very complicated filing (Category 4). A Category 4 would be a proposed road in a subdivision, utilities, gas mains, large scope projects. The Davenport project with the motels will be a Category 3 or 4. The Request for Determination is currently a fee of \$30.00 and in comparison other towns are charging \$100.00 so we proposed to go to \$75.00. The Notice of Intent is determined by the Category and that range is from 1-5 and the cost rises with the category. An Extension Permit is currently \$55.00 and will go to \$75.00; a Certificate of Compliance is currently \$55.00 and will go to \$75.00; Legal Advertising is \$6.00 and will go to \$10.00. The ANORAD will be the town fee schedule (also known as Category 6) \$2.00/linear foot of each Resource Area delineated. This would be salt marsh, BVW, and coastal bank.

Tom Durkin asked why the fees are going up. Brad explained that the fee increase will help cover the cost for the Conservation Commission. Tom Durkin raised questions regarding how the fees apply to individuals. Brad mentioned that the Category 5 does not apply to the construction of buildings, it pertains to coastal engineering structures, ie, docks & bulkheads.

Chairman Flaherty read into the minutes an e-mail from Dan Ojala, Down Cape Engineering, stating that the fee for an ANORAD for one unique house lot he was looking at, approximately 6 acres of upland, 9 acres of wetland would be very high, well over \$5,000 for a single family house lot. This seems quite excessive, should it be a cap for a single family house lot.

E-mail from Sheldon Segerman, reading, "as the town struggles to keep its head above water with coming major projects and keeping employees they have now it makes sense to increase the proposed fees as outlined. Those that need the services of the Conservation Commission have to help and pay these small increases. Those who would be opposed are the same people who are calling the town for services but ask them to pay there fair share and the song is different. The town has to be firm on these increases and we do have to cut in many areas but those cuts do not come close to meeting the budget gap. Fee increases are unpopular but needed".

Brad commented that a Category 4 fee for NOI in the State is \$1,450.00 and we get ½ and it goes into the Conservation Commission budget. The more complicated the review, the higher the fee. The State will charge \$2.00/foot for each resource area but not to exceed \$200.00 for activities associated for a single family house.

Commission felt that they should put a cap on a Category 2 as \$200.00 (single family)

Phil Johnston made a motion to accept the proposed fees as outlined in the Public Notice Proposed Fees with the addition that an ANORAD be capped for single family dwellings at \$200.00. New fees will become effective beginning April 11, 2011 Gerry Duffy seconded. Unanimous.