

WEST TISBURY CONSERVATION COMMISSION

MINUTES OF MEETING

May 27, 2008

**Present:** Prudy Burt Chair, Hadden Blair, Judy Crawford, Dan Pace, Binnie Ravitch, Peter Rodegast, Tara Whiting and Maria McFarland

**Also present for all or part of the meeting:** Amy Kwesell of Rubin & Rudman, Matthew Ray of Cini Law office, Leslie Fields of Woods Hole Group, W. Sterling Wall of Tetra Tech Rizzo, and Doug Hoehn of Schofield, Barbini & Hoehn and Kris Horiuchi

Prudy Burt called the meeting to order at 5:00 P.M. This meeting was recorded.

**Map 1 Lot 50 -continuation** of a public hearing under the requirements of G.L. Ch.131 § 40, as amended and the West Tisbury Wetlands Protection Bylaw and regulations to consider a **revised Notice of Intent** filed by the Woods Hole Group on behalf of John Sundin Trustee of Beach Pebble Realty Trust for property located at 30 Beach Pebble Road for a project to stabilize an eroding coastal bank by installing a low profile rip-rap revetment along the toe of a coastal bank , and to re-grade and re-vegetate the upper face of the bank.

Leslie reviewed the changes to the project plans. The entire revetment has been pulled landward into the bank by six feet so that the center of the toe stone is 6 feet landward from where it was previously. This design change will require regrading and re-sculpting the top of the bank, and remove 1,100 cubic yards of native bank material; 260 cubic yards of this material will be used for the beach nourishment at the project site. The trigger elevation for beach nourishment has been adjusted up one foot to 4.5 NVGD. Revisions to the construction protocol are noted in the cover letter Leslie submitted today. The excavated bank material is to be used for the beach nourishment will be stockpiled at the eastern end of the property. The remaining bank material will be trucked off site. [Note: The parties discussed the possibility of using the remaining material for nourishing the Berlin beach should it be determined that it is necessary. See the discussion below on the Berlin property.] Otherwise, the original construction protocol is the same as that submitted with the Notice of Intent.

Amy Kwesell, attorney for Mr. Berlin asked about a landscaping plan. Leslie replied that under the original plan the only area being disturbed was the access area which would be replanted with what is already there. There is currently no plan to do any major landscaping.

Sterling Wall, consultant to Mr. Berlin said he was pleased with the plan and recommends it for approval.

Matthew Ray, attorney for Messrs. Moeller and Bayleson had a question on the changes from previous plans. He noted that the proposed nourished beach seemed to go all the way up the first armor stone and not just to the top of the toe stone. He asked if there was any functional difference. Leslie said the elevation of the nourishment remained the same. Not as much of the revetment is covered because the revetment has been pushed back and up because the change in the slope of the beach. In essence the revetment has become smaller from the bottom up. Leslie

clarified that in the extreme case, the trigger for beach nourishment is whether the bottom of the toe stone is exposed.

Draft conditions have been prepared using the conditions proposed by Rubin & Rudman as a starting point. Leslie asked if all of those conditions would be approved. Maria explained that was just a starting point Leslie's letter of May 9<sup>th</sup> regarding her concerns about the proposed conditions was reviewed again. No decision has been made on whether to require a performance bond.

Timing of the construction was discussed. Amy explained that the time frame restriction came from the Makonikey Road Association.

There being no further questions, Prudy closed the public hearing.

Judy made a motion to approve the Notice of Intent as revised and shown on the plans dated May 23, 2008 and letter submitted today. Prudy, Judy, Tara and Peter voted to approve the project. The Commission will review and discuss conditions at its meeting on June 10<sup>th</sup>.

**Map 38 Lot 8 continuation** of a public hearing under the requirements of G.L. Ch.131 § 40, as amended and the West Tisbury Wetlands Protection Bylaw and regulations on a **Notice of Intent** filed by Schofield, Barbini & Hoehn Inc. on behalf of Bagehot Backs LLC for property located at 55 Oyster Watcha Road owned by Peter deRoeth. The project consists of selective view clearing and tree removal within the Buffer Zone of a Bordering Vegetated Wetland. Dough Hoehn and Kris Horiuchi were present. We have received the final comment letter from NHESP dated May 13, 2008. The letter was noted for the record. Kris submitted a revised landscape plan in that reflects the requirements of NHESP for this project to be in compliance regarding estimated and priority habitat. Doug Hoehn submitted proposed conditions based on the discussion at the meeting on May 13<sup>th</sup>. Doug is proposing that no view clearing work will be done until the dwelling is under construction. Dwelling construction will not begin until NHESP has received the habitat assessment referenced in their May 13<sup>th</sup> letter. He suggested that the view clearing be done in two phases with site visits conducted before each phase is begun. The members reviewed draft conditions Maria prepared which elaborate on what Doug submitted. Phase one would be just the view channels as shown on the project plan. We need to define "under construction". It was generally agreed that at a minimum, the house would need to be framed, with decking and final window/door openings in place. There is currently no house design.

It was also agreed that phase one clearing would be limited to the 3 view channels shown on the current version of the plan. After a lengthy discussion over how to determine a process to be followed for approving establishing view channels in the second phase of work, it was agreed that the hearing be continued so that Kris can prepare a plan that scales back the scope of clearing through out the 180 degree mid story view from the proposed house site. She will prepare a plan showing additional zones of limbing and what percentage of trees in each zone will be limbed.

A motion was made and seconded to continue the public hearing to June 10<sup>th</sup> at 5:10 PM in order for the plan to be revised based on the discussion tonight to create a way to describe phase 2 of clearing. All in favor.

**Map 23 Lot 7** - a public hearing under the requirements of the West Tisbury Wetlands Protection Bylaw and regulations on a **Notice of Intent** filed by Vineyard Land Surveying & Engineering on

behalf of Iya Labunka owner of property located at 68 Tisbury Lane West. The project consists of the construction and maintenance of a 10' wide by 630' long driveway within 100' of a vernal pool. Letter dated March 26, 2008 from NHESP states that with respect to the driveway only, the project as proposed will not adversely affect the actual Resource Area habitat of state-protected rare wildlife species. With respect to MESA this project is being proposed within the habitat of five state listed species. More detailed information on the entire project and lot must be submitted to NHESP. Reid Silva called the office today to request a continuance to June 24<sup>th</sup>. Request to follow in writing. A motion was made and seconded to continue the public hearing to June 24<sup>th</sup> at 5:25 PM. The vote in favor was unanimous. Judy mentioned that she spoke to Carol Kenney about the vernal pool. Ms. Kenney suggested that we be in contact with the Seven Gates superintendent. Prudy will talk to Charlie Pacheco.

### **New Business:**

**Map Lot 41.1/ SE 79- 171 Berlin** – Discussion with Sterling Wall and Amy Kwesell regarding monitoring at the Berlin property required under the Final Order of Conditions. For a variety of reasons, the monitoring protocol established under the Order was never followed. Sterling submitted a site plan showing existing conditions at the Berlin property prepared by Vineyard Land Surveying & Engineering dated April 30, 2008. They are proposing to establish 4 profile locations. The profiles will be done in the next four weeks. Profiles are a survey line cross section of the structure and the beach area as it extends out from low water to high water line and the toe of the structure.

The profiles are the trigger for additional beach nourishment. It is up to the discretion of the Commission to decide how to go forward based on these profiles. Prudy suggested that it might be useful to see if the Berlins and Sundins could work something out to use the extra bank material to be excavated from the bank in front of the Sundin property. A letter will be submitted outlining what has been discussed. They will come back to the June 24<sup>th</sup> meeting.

**Map 9 Lots 1.1 and 4 Chicama Vineyards/Mathiesen 61A Right of First Refusal**  
Letter was read. A letter will be sent to the Selectmen asking that they explore all opportunities to preserve this property in agricultural use.

**Map 6 Lot 5 /Ziff** – Maria updated the members on the work being done at this property with respect to the recent articles in the newspapers regarding clearing in priority habitat. No action was taken at this time.

### **Old Business**

**Map 32 Lot 83 Cooper/Review of landscape plan** prepared by Daniel Weinbach & Partners, Ltd. dated 4-16-2008 revised to 5/12/08 for work in the buffer zone under a Determination of Applicability issued on April 27, 2006. After a brief discussion with Jude Villa, the landscaper, a motion was made and seconded to accept the landscape plan. Maria will do a site visit to check on the hay bales and silt fence which are to remain in place until all the work is done. Once the landscaping is in place, a site visit will be done. All in favor.

**Landscapers taking water from Mill Brook:** Maria was instructed to ask the Selectmen for access to counsel to get an opinion on the legalities of landscapers taking water from the Mill Brook.

**Administrative**

**Terms:** The members discussed how to stagger the terms for reappointments. Tara, Judy and Peter will each be reappointed for 3 years terms. Dan will be 2 years and Hadden and Binnie will be appointed as full members each for a one year term.

There being no further business on the agenda, the meeting adjourned at 6:50 P.M.

Respectfully submitted,

Maria McFarland  
Board Administrator  
APPROVED