

# **Conservation Commission**

## **Meeting Minutes**

Town Hall Lower Conference Room

24 Perry Ave., Buzzards Bay, MA 02532

February 16, 2017

### **I. Call to order**

Chm. Gray called to order the meeting of the Conservation Commission at 7:00 PM on February 16, 2017. Chm. Gray explained all of the reviews, unless otherwise stated, are joint reviews. Applications will be processed pursuant to the Massachusetts Wetlands Protection Act, M.G.L. c. 131, s. 40 and pursuant to Article 3.7 of the Town of Bourne Wetlands Protection By-law.

Note: Chm. Gray addressed the audience and explained the 5, 5, 5 rule; which allows the applicant / representative five minutes to make a presentation to the Commission members, Commission members will take five minutes to seek clarification if needed, the conservation agent will also give a report and five minutes of public input is allowed. He asked for all to silence their cell phones.

Note: The meeting was being recorded anyone in the audience who was recording or videotaping was asked to acknowledge such to the Commission. The proceeding listing of matters are those reasonably anticipated by the Chair which may be discussed at the meeting. Not all items listed may be discussed and other items not listed may be discussed to the limited extent permitted by the Open Meeting Law. All items within the meeting agenda are subject to deliberation and vote(s) by the Conservation Commission.

**Members Present:** Robert Gray, Thomas Ligor, Paul Szwed, Susan Weston (7:15) and Rob Palumbo (7:26).

**Excused Members:** Melvin P. Holmes and Betsey Kiebala

**Also Present:** Sam Haines, Associate Member, Elise Leduc, Carol Mitchell, Dawna Gauvin, Darryl Gauvin, Jim Mulvey, Amanda Crouch-Smith, Joe Longo, David Darling, Karen McLachlan, Sean McDonald and John Ross.

**Request for Determination:**

1) Natalie Jackson Thrasher

File # CC17-002

Representative: Gauvin Building & Contracting, Inc.

21 Little Bay Lane, Buzzards Bay

To expand an existing deck within 100 feet of a Wetland Resource Area.

Materials Reviewed – Site Photographs, Site Plan of Record and DEP Wetlands Change Mapping.

Dawna and Darryl Gauvin of Gauvin Building & Contracting, Inc. addressed the board and discussed the proposed project to expand an existing deck off of an existing sunroom.

Board Comment – None.

Agent Comment – A site visit was performed on February 8, 2017, the area of the proposed deck will be located entirely within an existing landscaped area with a series of two stone retaining walls. Mr. Haines stated this will be a very large proposed deck; approximately 630 square feet. Based on his observations of the elevation change as well as looking at the FEMA mapping, the closest point of the proposed deck from the top of the Coastal Bank is approximately 23'. Mr. Haines could not find any previous coordination with the department on the retaining walls; however, in 1998 there was an RDA to enclose an existing deck to create a sunroom. Mr. Haines stated there is already a lot of alteration in this area so he doesn't know that the proposed deck will create any additional risk to the Resource Area; however, the Commission should consider the 50' setback language in the Adjoining Land section of the By-law. There is an existing shed located on the property. Based on past precedent, Mr. Haines stated the Commission may also consider allowing the deck extension to extend no further than the existing shed structure, this would reduce the size of the deck extension to 12'-14' vs. the proposed 20'. A discussion ensued.

Board Comment – Mr. Ligor asked if the existing stairs will be removed. Mr. Gauvin stated they will not be removed, they are currently cement blocks and wooden stairs will be built over them. Mr. Gauvin added that the footings will be dug by hand; no machinery will be used.

Ms. Leduc suggested the applicant reduce the extent of the deck seaward in order to keep it in line with the existing shed. Also, to avoid losing square footage, she suggested they extend the deck slightly further on the opposite side where there is sufficient space to meet the setback requirements.

Mr. Gray asked if it would be difficult to revise the plan to meet those constraints. Mr. Gauvin stated he'd have to speak with the homeowner for their approval.

Mr. Gray asked the representative if he'd like to continue the matter until the next meeting. After a brief discussion, the representative decided to continue the matter.

Public Comment – Jim Mulvey, an abutter, found no objection to the deck as such; however, he concurred with the agent and the Commission's assessment with regard to revising the size.

Chm. Gray entertained a motion. **Mr. Ligor moved and Ms. Leduc seconded to continue the matter to March 2, 2017.** With no discussion, the motion carried. 4-0-0.

**2) Valeri Construction**

File # CC17-003

Representative: Warwick & Associates, Inc.

188 Captains Row, Mashpee

Install a new Title V septic system within a V Flood Zone and 100 feet of a Wetland Resource Area.

*(Continued to March 2, 2017)*

**3) Colonial Gas**

File # CC17-001

Representative: Tighe & Bond

88 Sagamore Road, Bourne

Install approximately 200 linear feet of gas line within 100 feet of a Wetland Resource Area.

*(Continued from February 2, 2017)*

Materials Reviewed – Revised Site Plan of Record.

Amanda Crouch-Smith addressed the board and discussed the alternate location chosen to lay the 200 linear feet of gas line vs. the original proposed location as discussed at

the February 2<sup>nd</sup> hearing. She stated there is a need to cut 4'-6' feet of the sparse understory to allow a mini excavator to gain access to the site. A standard 2' wide trench will be dug and backfilled once completed. A standard seed mix will be used to revegetate the cut understory. Straw will be placed over the seed until it becomes restored.

Board Comment – Mr. Ligor asked if the easement problem has been settled with the neighbor. Ms. Crouch-Smith stated it has.

Ms. Leduc asked what type of seed mix will be used. Ms. Crouch-Smith stated it is a general seed mix that National Grid typically uses.

Agent Comment – Mr. Haines stated this was strictly an easement issue; he doesn't have any problem with the work as proposed previously. He stated it's unfortunate that cutting has to be done, but he doesn't see any risk to the Resource Area as a result of it as long as it's revegetated.

Public Comment – None.

Chm. Gray entertained a motion. **Mr. Ligor moved and Mr. Szwed seconded a Negative Two Determination.** With no discussion, the motion carried. 4-0-0.

**Notice of Intent:**

- 1) Darling Development Group  
File Number: SE7-1970  
Representative: Horsley Witten Group, LLC  
25 Perry Ave, Buzzards Bay

Develop a five-story, 100 unit Hampton Inn and related appurtenances within an AE Flood Zone and within 100 feet of a Wetland Resource Area.

Materials Reviewed – Site Photographs, Notice of Intent Hampton Inn Perry Avenue, Buzzards Bay, Massachusetts; prepared by Horsley Witten Group, dated January 2017, Storm water Management Report, Franchise Hotel Buzzards Bay, Bourne Massachusetts, prepared by Horsley Witten Group, dated November 2016; MA DEP Wetland Change Areas Mapping for the site location; Plan Set entitled "Franchise Hotel 25 Perry Avenue Buzzards Bay, Massachusetts" prepared by Horsley Witten Group, dated December 19, 2016; Plan entitled "Hampton Inn by Hilton Perry Avenue, Buzzards Bay, MA", prepared by Horsley Witten Group, dated February 2017; Plan entitled "Franchise Hotel, 25 Perry Avenue, Buzzards Bay, MA", prepared by Horsley Witten Group, dated January 2017.

Joe Longo, Principal Engineer with Horsley Witten Group, addressed the board and discussed the proposed project to build a 100 unit hotel. He stated the proposed location is located within the 100 year Flood Zone. He discussed the location of the Coastal Bank and stated there is no work proposed within the 50' buffer of the Bank or within 100' of the canal. There is a minor amount of work proposed at the entrance to the property; which is a couple hundred square feet within the 100' buffer. Mr. Longo stated they've presented the project to the Design Review Committee who after reviewing the Site Design, Landscape Design, and the Building Design and are now ready to recommend approval to the Planning Board. Mr. Longo will present to the Planning Board on March 2, 2017.

Mr. Longo discussed the need to raise the sill elevation of the site from approximately 12' to 16'; the finished floor elevation is required to be above 16'; this will require approximately 20,000 yards of fill. The first floor elevation of the hotel will be approximately 16 ¼ feet. The road will slope gently up to the entrance of the hotel and is proposed to eventually extend to the driveway located at the Keystone property. There are 107 proposed parking spaces.

Mr. Longo stated Compensatory Flood Storage Mitigation is not required because this is not Riverfront. Also, there are no Performance Standards required. Additionally, Mr. Longo discussed the proposed Storm Water Treatment System.

A brief discussion transpired with regard to the lots being sub-divided.

Board Comment – Chm. Gray asked what the proposed finished elevation of the parking will be once the fill is brought in. Mr. Longo stated Hilton requires that each side and the front has ADA access, so approximately 15.75'. He referred to the plan to discuss the slope down to the road. Chm. Gray asked what the existing elevation of the parking area is. Mr. Longo stated it ranges from 10' – 12'.

Mr. Longo stated permeable grass pavers will be used at the rear of the building to allow Fire Department access around the perimeter of the proposed building.

Chm. Gray asked where any fuel will be stored. David Darling, the applicant, stated there won't be any fuel stored; however, Hilton has strict requirements that all flammables be stored in locked flammable storage cabinets. He stated natural gas will be used for heat and hot water and town sewer has been allocated for the entire property.

Mr. Ligor asked what type of paving material is proposed for the parking lot. Mr. Longo stated the parking lot will be bituminous asphalt and the sidewalks will be concrete, the runoff will be contained and treated on site.

Chm. Gray asked if this was Phase I of a larger scale project. Mr. Darling stated there's a larger developer who owns all of the land, 20+ acres. Darling Development is purchasing 2.7 acres specifically for the proposed hotel. The parcel directly in front of it, the current location of Ocean State Lobster and the smaller buildings on that parcel, are not part of the hotel project. Mr. Darling then provided a brief history of his company.

Mr. Ligor opened a discussion with regard to the plan for snow removal. He also asked if salt or sand will be used. Mr. Longo explained the parking area will be plowed. He stated there's 15 feet between the paved parking and the edge of the property to place snow. There's also additional space in the middle and along both sides of the property if needed. Mr. Darling stated he prefers to use salt vs. sand but avoids using any treatment when possible. He added that at his hotel in W. Yarmouth, they employ a landscaping company to perform year-round maintenance and to plow. Mr. Haines explained the operation in the submitted Maintenance Plan states sweeping will be done annually in the spring after the snow melt and as needed.

Mr. Haines referred to the plan and inquired as to whether or not the dark green shaded areas outside of the property line were proposed management areas or revegetation. Mr. Longo stated the darker shaded area outside the scope of work is not a proposed management area; this area will remain untouched. He stated only the green area within the property will be planted as shown. Mr. Haines reiterated that the proposed limit of work will be what's shown within the black intermittent line on C6. Mr. Longo stated that is correct.

Mr. Haines stated the proposed pathway to the canal is closer to the Wetland Resource Area and it appears that an easement would be required by both the town and the Army Corps. of Engineers. Mr. Longo stated the pathway is not part of the initial design; this is a future endeavor.

Agent Comment – Mr. Haines stated he performed a site visit on two separate occasions. The site is relatively flat, with a developed portion where the shellfish processing facility is located. He walked the entire property it all looks to him that it is relatively upland containing mixed hardwoods and some dense pockets of invasive species. The Coastal Bank, located around the 3 mile look, technically meets the criteria for the guidance document policy 92-1; but, it's a man-made feature and would

refer to it as a Coastal Bank by definition only. Something the Commission should consider is technically the added fill will create Coastal Bank around the entire property. Mr. Haines reiterated that the proposed walkway to the canal will require easements by both the town and the Army Corps., if the Commission does at some point issue the Order, he suggests requiring proof of those easements prior to the start of work in that area. Mr. Haines stated the project involves 27,000 cubic yards of fill, there are no Performance Standards for AE Flood Zone under state law and the Town's By-law has no more restrictive language than the state does. FEMA regulations and building code do appear to allow structural fill within the AE Flood Zone. Mr. Haines reviewed the planting list, there are some non-native species recommended on there; but he did not identify any plants likely to be on the invasive species list. The major concern Mr. Haines has with the project is its ability to meet the Storm Water Standards. He has been working with the town planner who is coordinating a peer review with the Planning Board prior to the applicant's March 2<sup>nd</sup> presentation to the Planning Board. Mr. Haines recommends continuing the matter to March 2, 2017.

Board Comment – Ms. Leduc asked what the proposed pathway's surface will be made of. Mr. Longo stated that is to be determined; however, they will choose a pervious material.

Ms. Leduc asked if the applicant would need to come back for the Commission's approval prior to constructing the path. Mr. Haines stated no, because it's on the Plan of Record; if the Commission approves the Plan of Record, the path will be approved with it.

Ms. Leduc asked if the fill being added creates Coastal Bank around the entire property, will future work on the property require a filing with the Commission. Mr. Haines stated because the entire 20+ acres is located within an AE Flood Zone, any work on the property will require some sort of filing with the Commission. In the future, the Commission will have to take into account that this is a man-made Coastal Bank. A discussion ensued.

Public Comment – abutter, Karen McLachlan, expressed concern that her property across the street may face potential flooding with the hotel property's elevation being raised. Additionally, she questioned how high above the tree top levels will the proposed building be. Mr. Darling discussed the layout and design of the building. Ms. McLachlan asked if lighting will be seen above the tree line. Mr. Darling stated he wasn't sure. Mr. Haines informed her that lighting will be discussed at the Planning meeting being held on March 2<sup>nd</sup>. Ms. McLachlan stated her main concern is the rain water run-off.

Mr. Ligor asked if the hotel will have function rooms. Mr. Darling stated there will be one or two small meeting rooms but will not be equipped to handle large functions.

Chm. Gray asked Mr. Longo to address Ms. McLachlan's concerns pertaining to the rain water run-off. Mr. Longo explained the design of the Storm Water Treatment System. Chm. Gray asked if Ms. McLachlan is concerned with flooding associated with a rain storm/thunder storm or a coastal flood. Ms. McLachlan stated she's concerned with any type of run-off and asked about an existing brook and pond that appears to be nearby based on Google Maps. She thinks there may be water underneath and questioned whether she'd end up with a flooded basement. Mr. Haines stated he believes the brook and the salt marsh as seen on Google Maps is on the next property over, the town owned Canal Crossing property. He stated he walked this property and it appears to be all wildlife habitat, no wetlands. Chm. Gray stated the placement of the fill will not displace water elsewhere and cause an elevation rise on abutting properties. Adding that the state's perspective is, as long as the Flood Zone is associated with the ocean, placing fill in that Flood Zone will not result in a vertical increase in the height of the water during a flood. In a riverine situation, Compensatory Flood Storage would be required. Mr. Haines stated the town is hiring a third party engineer to ensure the project meets the Massachusetts Storm Water Management Standards.

Mr. Mulvey emphasized that the Commission should consider Storm Water Management for the site as a whole rather than one project at a time as future proposed projects include; retail buildings and a housing establishment which will add to the storm water runoff. Mr. Longo stated future project's storm water infrastructure will be designed to handle pre vs. post volumes such that it can be infiltrated on site as required by state regulations. A discussion ensued.

Chm. Gray asked the applicant if they'd like to continue the matter to the March 2, 2017 meeting. The applicant agreed to continue the matter.

Chm. Gray entertained a motion to continue the matter to March 2, 2017. **Mr. Ligor moved and Ms. Weston seconded to continue the matter to March 2, 2017.** With no discussion, the motion carried. 5-0-0.

**2) Steven L. Candela**

File Number: SE7-1964

Representative: Bracken Engineering, Inc.

41 Harbor Drive, Pocasset



Permitting a modified pier/float system on an existing stone groin within a V Flood Zone and Wetland Resource Area.

*(Continued to March 2, 2017)*

**Request for Certificate of Compliance:**

**1) Michael B. Lewis**

DEP File Number: SE7-1420

Representative – Same

84 Captains Row, Mashnee

Raze existing building and construct a 3 bedroom home, garage and install a septic system within an AE Flood Zone and 100 feet of a Wetland Resource Area.

Agent Comment – A site visit was performed on February 8, 2017. There was a partial certificate for the project that covered the entire building. Mr. Haines stated there was required planting near the Coastal Bank that hadn't been performed; however, over the last 10 years, the applicant allowed the vegetation to regrow naturally. Mr. Haines recommends issuing the Certificate at this time.

Board Comment – None.

Chm. Gray entertained a motion to grant the Certificate. **Ms. Weston moved and Mr. Palumbo seconded to grant the Certificate of Compliance.** With no discussion, the motion carried. 5-0-0.

**2) Warwick & Associates**

DEP File Number: SE7-1819

Representative: Same

52 Baxendale Road, Cataumet

Restoration of unpermitted alteration of Coastal Bank.

**Materials Reviewed** – Site Photographs

Agent Comment – Mr. Haines performed a site visit and found some issues on the property. On the Southside of the Bank, the restoration planting of the Bank and the invasive species control was done very well; however, a border privet along the top of the entire Coastal Bank is acting as a seed source so complete elimination is not possible on

this site. The border privet was there prior to the enforcement. As an amendment to the Order, the applicant installed a catch basin to collect storm water at the end of the road; however, the swale that was to be removed and regraded was not. There's a plastic outlet underneath it that he's not sure what its purpose is. Additionally, what was to be temporary irrigation is still in place. Mr. Haines mentioned there's a bio-microbic blower at the top of the Bank. He stated this was not originally permitted but it is needed for the septic system and may have to be overlooked by the Commission. Mr. Haines stated he has bigger concerns on the Northside of the Bank; there appears to have been additional restoration work performed around the deck stairs. It appears to him that the deck and stairs are pulling away from the house and may become a bigger problem if it is not addressed. This will require a separate filing. There's also a disturbed earth along the top of the Bank. Mr. Haines does not recommend issuing the Certificate of Compliance or even a partial Certificate. He will draft a letter to the representative expressing his concerns. The Commission agreed this is the best course of action.

Chm. Gray entertained a motion. **Ms. Weston moved and Mr. Palumbo seconded not to grant the Request for Certificate of Compliance.** With no discussion, the motion carried. 5-0-0.

#### **Other Business:**

- Discussion of Aquaculture project to the North side of Mashnee

Materials Reviewed – Aerial photograph showing site location.

John Ross addressed the Commission and discussed his desire to grow quahogs on the Northside of Mashnee Dike. He stated he has received approval from The Division of Marine Fisheries as well as the Board of Selectmen.

Board Comment – Mr. Ligor asked if the quahogs will be bagged. Mr. Ross stated no, he will not use cages or nets either. He will plant the shellfish directly in the bottom, rake them to ensure they dig in and then in approximately one year, harvest them.

Ms. Weston asked how the area will be marked. Mr. Ross stated the area is currently marked with buoys; however, he plans on using four PVC markers to delineate the area. Mr. Ross originally requested an acre; however, during the state's study of the proposed area, Eel Grass was discovered which has now reduced the area to 1/3 of an acre.

Chm. Gray stated he spoke with the agent about this request and doesn't feel it requires a filing because it's similar to what DNR does with oysters off Emmons Island. Mr. Haines

agreed and stated if the Commission agrees that no filing is required, he will simply write a letter to DNR stating that.

Chm. Gray entertained a motion. **Ms. Weston moved and Mr. Ligor seconded that no filing is required for this aquaculture project.** With no discussion, the motion carried. 5-0-0.

- Approval of Revisions to the Bourne Conservation Commission's Special Conditions-

The Commission discussed at length the agent's proposed revisions to the Bourne Conservation Commission's Special Conditions. No action was taken pending further revisions by the agent.

- Vote excused Absent Members, if necessary –

**Mr. Palumbo moved and Mr. Ligor seconded to excuse the absent members.** With no discussion, the motion carried. 5-0-0.

Chm. Gray announced that Ms. Kiebalá submitted her resignation. A brief discussion ensued.

- Acceptance of Previous Meeting Minutes –

Chm. Gray entertained a motion to approve the minutes of the January 19, 2017 meeting.

Mr. Haines noted one revision. **Mr. Palumbo moved and Mr. Ligor seconded to approve the minutes of the January 19, 2017 minutes as amended.** With no discussion, the motion carried. 5-0-0.

- Report of the Conservation Agent – None.

- Correspondence –

Eversource yearly operating plan (YOP) for selective application of herbicides.

National Grid – Notification of proposed gas main replacement projects.

A brief discussion transpired concerning correspondence received from Eversource and National Grid. No action by the Commission was required.

- Any other business that may legally come before the Commission – None.

- Questions and Answers re: M.G.L. Chapter 131 s. 40 and 310 CMR 10.00-10.99 – None.

- Questions and Answers re: Town of Bourne Wetland Protection By-law (Article 3.7) and BWR 1.00-1.16 – None.

## **II. Adjournment**

**Mr. Palumbo moved and Ms. Weston seconded to adjourn.** With no discussion, the motion carried. 5-0-0. The meeting adjourned at 8:41 PM.

Minutes Submitted by: Carol Mitchell