

Conservation Commission

Meeting Minutes

Town Hall Lower Conference Room

24 Perry Ave., Buzzards Bay, MA 02532

November 2, 2017

I. Call to order

Chm. Gray called to order the meeting of the Conservation Commission at 7:00 PM on November 2, 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 Bylaw.

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, Rob Palumbo (7:16), Thomas Ligor, Paul Szwed, Susan Weston, Melvin P. Holmes, Elise Leduc and Associate Member, Greg Berman.

Excused Members: None.

Also Present: Sam Haines, Carol Mitchell, Paul Gately, Jim Mulvey, Elizabeth Stromeyer, Kathy Sargent-O'Neil, Peter McIntee, Bretton Harkawicz and Paul Carlson

Request for Determination of Applicability:

1) Gerald R. Anderson Trust

File # CC17-41

Representative: Engineering Works, Inc.

55 Pocahontas Rd, Pocasset

To perform a complete septic upgrade within an AE Flood Zone.

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

(Hearing Under State Act Only)

Peter McIntee addressed the board and described the proposed project.

Board Comment – None.

Agent Comment – Mr. Haines stated the lot is flat and entirely landscaped. He did not identify any issues with the project.

Public Comment – None.

Chm. Gray entertained a motion. **Mr. Holmes moved, Ms. Weston seconded a Negative Two Determination.** With no discussion, the motion carried. 7-0-0.

2) Candace Fisher

File # CC17-39

Representative: Environmental Consulting & Restoration, LLC

6 Fisher Lane, Sagamore Beach

To construct a sand fence within a V Flood Zone and a Wetland Resource Area.

Materials Reviewed – Site Photographs, Revised Site Plan of Record, Revised Narrative, letter from The Natural Heritage & Endangered Species Program and DEP Wetlands Change Mapping.

(Continued from October 19, 2017)

Cameron Larson addressed the board and presented them with a revised plan. He provided an overview of the site and stated the purpose of the proposed sand fence is to help mitigate some of the ongoing erosion. He discussed revisions made to the plan based on comments received from Mr. Haines and feedback from The Natural Heritage & Endangered Species Program.

Board Comment – Mr. Ligor asked if the existing stairway is safe and usable. Mr. Larson stated the existing stairway is nearly dilapidated. Mr. Ligor asked if the face of the bank is used as a means to access the beach. Mr. Larson stated the stairs located at 8 Fisher Lane, just north of the property, will be used to access the beach.

Ms. Leduc asked if the representative is proposing a similar zig-zag sand fence on the adjacent property and will they be connected. Mr. Larson stated it's identical and yes, they'll be connected.

Mr. Holmes opened a brief discussion with regard to the distance between the slats in the fence.

Mr. Berman questioned how the slats on the fence will be connected. Mr. Larson stated the construction is typical for this type of fence, thin wooden slats connected by twisted wires.

Agent Comment – Mr. Haines noted a cut and paste error in the project narrative with regard to it being an RDA not a Request to Amend as stated. Mr. Haines stated since it's the installation of a BMP only, he felt the project could be brought forward under an RDA application. The StormSmart Fact Sheet for sand fencing states that when properly designed, sand fencing projects do not reflect or redirect waves onto beaches or neighboring properties. It also states that in general, the impacts of sand fencing projects are relatively minor compared to other options. The wetland restriction on this beach under M.G.L. Ch. 131, Sec. 105, does allow for the placement of fences as long as they do not destroy existing vegetation or substantially alter tidal patterns, movements of sediment or natural contours. Mr. Haines's primary concern with the project is the area is mapped for piping plover. The Natural Heritage & Endangered Species Program has provided feedback and has heavily conditioned the project which he feels any Negative Determination should include those. Mr. Haines identified two additional issues during his site investigation. The first; the coastal stairs are in disrepair and are threatening to destabilize the bank. There has been some repair work performed about 2/3 of the way above the slope. There is not an active filing for the repair. He spoke with the homeowner and informed her that typically a repair within the same footprint would require an RDA filing, a tear down / rebuild would require a Notice of Intent filing. The second issue, shown in the photos, there's a lot of orange fencing. Mr. Haines recommended that a condition be added that all of the fencing and any material associated with it be removed.

Chm. Gray asked if the fencing will be installed between April 1st through August 31st. Mr. Larson stated it will not be installed during that period.

Ms. Leduc asked if the fence will remain in place permanently once it's installed. Mr. Larson concurred.

Mr. Berman questioned whether or not any plantings are being proposed once the sand begins to accumulate. Mr. Larson stated they are proposing some beach grass plantings to the landward side of the fence. The Natural Heritage & Endangered Species Program does not want anything planted seaward and they have specific requirements for the beach grass. A brief discussion ensued.

Public Comment – None.

Chm. Gray entertained a motion. **Ms. Leduc moved, Mr. Ligor seconded a Negative Two Determination with all of the conditions set forth by The Natural Heritage & Endangered Species Program as well as the additional condition stated earlier by the agent.** With no discussion, the motion carried. 6-0-1. Mr. Palumbo abstained.

Request to Amend Order of Conditions:

1) Sarah Fisher

File # SE7-1966

Representative: Environmental Consulting & Restoration, LLC

8 Fisher Lane, Sagamore Beach

To allow for the installation of a sand fence within a V Flood Zone and a Wetland Resource Area.

Materials Reviewed – Site Photographs, Revised Site Plan of Record, Revised Narrative, feedback from The Natural Heritage & Endangered Species Program and DEP Wetlands Change Mapping

(Continued from October 19, 2017)

Cameron Larson addressed the board and discussed the property owner's request to amend the previous request, the construction of a coastal bank stairway. A partial COC was issued for the construction of the access stairs; however, there is some ongoing planting work that is currently taking place. He is proposing the exact same fencing design as at 6 Fisher Lane. The Natural Heritage & Endangered Species Program issued near identical conditions as the 6 Fisher Lane project, which have been included in the revised narrative and the detailed schematics for the fence itself.

Agent Comment – Mr. Haines discussed the reason for the separate filing. He suggested the Commission incorporate all of the conditions required by The Natural Heritage &

Endangered Species Program into the Amended Order of Conditions. There is also orange fencing on this property. Its removal should be included as a condition should the Commission approve the amended order.

Board Comment – None.

Public Comment – None.

Chm. Gray entertained a motion to close the public hearing. **Mr. Holmes moved, Ms. Weston seconded to close the public hearing.** With no discussion, the motion carried 7-0-0.

Mr. Haines – Draft Amended Order of Conditions: All General Conditions, Special Conditions pursuant to M.G.L. Chapter 131, Section 40 numbers 1-3, 11, 13, 14, 16, 17, 19-21, 24, Special Conditions pursuant to the Bourne Wetlands Protection Bylaw Article 3.7 numbers, 4, 7-9 and additional Special Conditions; 1) as stated in the project narrative, all work must be performed by hand; no equipment is allowed on the Coastal Bank, 2) no construction materials shall be stored or stockpiled on the Coastal Bank, 3) no mowing or clearing of vegetation is allowed on the Coastal Bank or within the 50 foot buffer to the Coastal Bank other than the four foot wide grass pathway shown on the plan of record, existing vegetation must be allowed to grow to maturity and any vista pruning must be approved by the Conservation Commission in a subsequent filing, 4) this Order of Conditions incorporates the conditions as outlined in the October 24, 2017 letter from The Natural Heritage & Endangered Species Program, 5) all of the orange fencing and any material associated with it must be removed.

Chm. Gray entertained a motion to move the Draft Amended Order of Conditions to the Final Amended Order of Conditions. **Mr. Holmes moved, Ms. Weston seconded to move the Draft Amended Order of Conditions to the Final Amended Order of Conditions.** With no discussion, the motion carried. 7-0-0.

Notice of Intent:

1) Calamar Enterprises

File # SE7-1984

Representative: InSite Engineering

13 Kendall Subdivision (formerly 25 Perry Ave), Buzzards Bay

To construct a 3 story apartment complex with associated parking, utilities, drainage and landscaping within an AE Flood Zone.

(Hearing Under State Act Only)

(Continued from October 5, 2017)

Materials Reviewed – Revised Site Plans prepared for Calamar at Bourne (11 Sheets), prepared by In Site Engineering Services, LLC, dated October 31, 2017; Coastal Engineering Co. Peer Review: Stormwater Management Systems dated October 25, 2017; Revised Stormwater Management Report prepared for Calamar at Bourne, prepared by In Site Engineering Services, LLC, dated October 31, 2017; Coastal Engineering Co. Peer Review: Stormwater Management Systems dated October 25, 2017; Insite Engineering Services LLC Response to Coastal Engineering Peer Review dated October 31, 2017; November 2, 2017 email correspondence from Tarja L. McGrail PE.

Bretton Harkawicz and Paul Carlson addressed the members. Mr. Harkawicz quickly recapped the proposed project. He discussed the peer review that was performed by Tarja McGrail of Coastal Engineering and the revisions made to the plans to address the feedback received from the peer review. Mr. Harkawicz concluded his presentation by discussing the letter of recommendation for approval of the project from Ms. McGrail that was emailed to them prior to the start of the meeting. He mentioned that Ms. McGrail recommended adding a special condition to the Order with regard to recalculating storm water discharge calculations.

Board Comment – None.

Agent Comment – Mr. Haines addressed some issues that were raised by the public at the previous meeting. One issue that was discussed was the possibility of a pond having existed on the site or the possibility of a jurisdictional wetland existing based on some mapping. Both Mr. Haines and Chm. Gray visited the site twice and could not identify any jurisdictional wetlands on the property. With regard to the Eastern box turtle, this species is not identified in the 2018 map priority habitat.

Chm. Gray briefly spoke of his site visit and concurred with Mr. Haines's impression of the site. He feels that the agent and the Commission have done their due diligence with verifying concerns raised at the last meeting.

Additional Agent Comment – Mr. Haines summarized comments he received in an email prior to the meeting from the consultant who performed the peer review. In the email, Ms. McGrail suggested a special condition be added to the Order with regard to

storm water management. Mr. Haines stated he also has additional suggested conditions based on his review and discussions from the previous meeting. The additional suggested conditions are; ASC 1) this Order of Conditions is not valid until the Bourne Planning Board has approved the final peer review from Coastal Engineering Company and has completed their site plan review for the work to be performed, 2) erosion controls around the perimeter of the property consist of either wire reinforced siltation fencing or standard siltation fencing reinforced with hay bales, erosion controls must be installed per BMP guidelines, must be inspected daily and repaired and/or replaced as needed. (Mr. Haines stated if the Commission feels that extent of siltation controls only needs to be installed on the east and north sides of the property, this is acceptable), 3) tracking pads must be installed at all entrances and exits to the property, 4) petroleum spill kits must be kept on site at all times and 5) as this project proposes an alteration greater than one acre in size, an NPDES Construction Permit is required, a copy of this permit should be provided electronically to the Bourne Conservation Department prior to any start of construction.

Board Comment – Ms. Leduc opened a brief discussion with regard to the consultant's recommendation to add a special condition the Order.

Ms. Weston questioned the need to vote on the application that evening. Mr. Harkawicz explained that they were hoping to begin the project this fall. They've had multiple meetings and continuances which has impeded their progress. He stated they had eight pages of comments from the peer review and they addressed all comments favorably. Additionally, they're fully in agreement with all of the conditions that Mr. Haines mentioned and they are willing to satisfy any other concerns that may arise when they meet with the Planning Commission next week. He asked that the Commission make a decision that evening.

Mr. Holmes asked if this project requires coordination with the hotel being built on the adjacent property. Mr. Harkawicz stated a good portion of their peer review was to make sure their drainage spoke to the drainage that had been put in place for both the hotel and the road.

Ms. Leduc asked for clarification regarding the recommended special condition that Ms. McGrail discussed in her letter. Mr. Carlson explained the storm water discharge calculations. A discussion ensued.

Mr. Harkawicz reiterated the urgency in receiving a decision that evening. Chm. Gray stated he'd prefer that the Commission act on it that evening and offered his opinion on the value of closing the hearing that evening.

Mr. Palumbo asked the agent if the Planning Board will be reviewing the calculations. Mr. Haines stated he could not speak for the Planning Board; however, as part of their sub-division regulations, the project must also meet the Massachusetts Storm Water Standards and the Town of Bourne regulations.

Chm. Gray asked Mr. Haines if the reviewer, Coastal Engineering, is the joint reviewer for the Planning Board and the Conservation Commission. Mr. Haines stated they are.

Public Comment – None.

Chm. Gray entertained a motion to close the public hearing. **Mr. Palumbo moved, Mr. Ligor seconded to close the public hearing.** With no discussion, the motion carried 7-0-0.

Mr. Haines – Draft Order of Conditions: All General Conditions, Special Conditions pursuant to M.G.L. Chapter 131, Section 40 numbers 1-4, 7, 9, 10, 12, 14, 15, 17-19, 26-29 and the additional Special Conditions as previously stated by the agent.

Chm. Gray entertained a motion to move the Draft Order of Conditions to the Final Order of Conditions. **Mr. Holmes moved, Ms. Weston seconded to move the Draft Order of Conditions to the Final Order of Conditions.** With no discussion, the motion carried. 7-0-0.

2) Steven and Nancy Candela

File #

Bracken Engineering, Inc.

41 Harbor Dr., Pocasset

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

(Continued at the request of applicant to November 16, 2017)

3) James Diede

File # SE7-1986

Representative: Bracken Engineering, Inc.

60 Lewis Point Road, Bourne

To place supplemental fill material, grade and install vegetative plantings within an AE Flood Zone and within a Wetland Resource Area.

(Continued at the request of applicant to November 16, 2017)

Other Business:

- Open Meeting Law Revisions – Mr. Haines stated the Open Meeting Law was revised as of October 6, 2017. He provided the members with material pertaining to the revisions. He informed the members that a red lined copy that shows the differences between the two has been posted on the town's website. He asked the members to review the material and provide him with their receipt of materials. He will add this as a topic for discussion at a future meeting. A brief discussion ensued.

- Vote excused absent members, if necessary – None.

- Acceptance of Previous Meeting Minutes – Chm. Gray entertained a motion to approve the minutes of the September 21, 2017 meeting. Mr. Haines noted two revisions. **Mr. Ligor moved, Ms. Leduc seconded to approve the minutes of the September 21, 2017 meeting as revised.** With no discussion, the motion carried. 7-0-0.

- Re-Organization of Conservation Commission – After a brief discussion, Ms. Leduc accepted the nomination of vice-chair.

- Report of the Conservation Agent – None.

- Public Comment Period on Non-Agenda Items – None.

II. Adjournment

Mr. Leduc moved, Mr. Holmes seconded to adjourn. With no discussion, the motion carried. 7-0-0. The meeting adjourned at 8:04 PM.

Minutes submitted by: Carol Mitchell