

Conservation Commission Meeting Minutes

Town Hall Lower Conference Room

24 Perry Ave., Buzzards Bay, MA 02532

December 15, 2016

I. Call to order

Chm. Gray called to order the meeting of the Conservation Commission at 7:00 PM on December 15, 2016. 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.

Chm. Gray noted that the meeting was being recorded. He asked that anyone in the audience who was recording or videotaping 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: Chm. Robert Gray, Robert Palumbo, Thomas Ligor, Melvin P. Holmes, Susan Weston (7:10), and Paul Szwed.

Excused Members: Betsey Kiebala

Also Present: Sam Haines, Elise Leduc, Carol Mitchell, Barbara Frappier, Caleb Garone, Eleanor Wendell and Bradley Bertolo.

Requests for Determination of Applicability:

1) Christopher Wilder

File Number: CC16-72

Representative: Barbara Frappier, Warwick & Associates

670 Scraggy Neck Road, Cataumet

Renovate the existing dwelling which includes the expansion of the second story and ground level decks within AE Flood Zone. Work also includes grading, landscaping, utilities and other appurtenances.

(Hearing Under State Act Only)

Materials Reviewed – Wetland Change Areas Map; “Site Plan” dated 11/18/2016; Site photographs.

Barbara Frappier addressed the board and discussed the proposed project.

A brief discussion transpired with regard to the location of a Coastal Bank.

Board Comment – None.

Agent Comment – Mr. Haines performed a site visit and noted the area is relatively flat and consists of lawn. The only issue he had pertained to the Coastal Bank which has been addressed.

Board Comment – None.

Public Comment – Eleanor Wendell, an abutter, questioned what type of utility work will transpire. Ms. Frappier stated utilities and other appurtenances is a catch-all phrase used to prevent the need for an additional permit in the event that a minor detail was overlooked.

Chm. Gray entertained a motion. **Mr. Holmes moved and Mr. Ligor seconded a Negative Two Determination.** With no discussion, the motion carried. 5-0-0.

Notice of Intent:

1) Joseph N. Accardi

DEP File Number: SE7- 1963

Representative – Bradley Bertolo, JC Engineering, Inc.

38 Buttermilk Way, Bourne

Raze the existing dwelling and construct a single family dwelling with associated utilities within an AE Flood Zone.

(Hearing Under State Act Only. Continued from 12/1/2016)

Materials Reviewed – None.

Chm. Gray stated if there will be any deliberation, he will recuse himself from discussion and vote. Mr. Haines stated the matter was continued from December 1, 2016, because a permit number had not yet been issued by the DEP. Since there was no deliberation, Chm. Gray did not recuse himself.

Board Comment – None.

Agent Comment – None.

Public Comment – None.

Chm. Gray entertained a motion to close the public hearing. **Mr. Holmes moved and Mr. Ligor seconded to close the public hearing.** With no discussion, the motion carried. 5-0-0.

Mr. Haines - The permit of record was signed and stamped by John L. Churchill Jr., November 16, 2016. Draft Order of Conditions: All General Conditions, Special Conditions pursuant to M.G.L. Chapter 131, Section 40 numbers 1-3, 5, 6, 12, 13, 16-22, 24 and Special Conditions pursuant to the Town By-law numbers, 7, 8, 9, 20 and 24 will continue in perpetuity.

With no additional Conditions, **Mr. Holmes moved and Mr. Ligor seconded to move the Draft Order of Conditions to the Final Order of Conditions.** With no discussion, the motion carried. 5-0-1. Ms. Weston abstained.

Request for Certificate of Compliance:

- 1) JC Engineering, Inc.
DEP File Number: SE7-1939
Representative – Same
5 Bournedale Road, Bourne

Raze of existing structure and rebuild of new dwelling, minor grading and utility installation within a Riverfront Area.

Agent Comment – A site visit was performed on December 13, 2016. The only deviation was the dwelling was moved approximately 15’ east of the proposed location. Mr. Haines doesn’t feel this is a substantial deviation and recommends issuance of the Certificate.

Board Comment – Ms. Leduc asked if by moving the dwelling east, is it now closer to the Resource Area. Mr. Haines stated yes; however, it is no closer than the previous existing dwelling.

Mr. Ligor moved and Mr. Palumbo seconded to grant the Certificate of Compliance. With no further discussion, the motion carried. 6-0-0.

Other Business:

- Discussion of the Lyman Forest Cutting Plan and the proposed forest management activities. –

Materials Reviewed - 2015 Lyman Forest Management Plan; December 2016 Cutting Plan; Conservation Plan showing the areas to be managed; and an excerpt from Chapter 5 of the Massachusetts joint regulatory document “Farming in Wetland Resource Areas”.

Chm. Gray referred to the plan and advised the members that only fields 8 and 9 on the plan are located in the Town of Bourne. The other fields are located in Plymouth and Wareham.

Caleb Garone, Habitat Specialist for The Trustees, addressed the board. He referred to the submitted plan to describe the proposed project and the purpose of the project.

Board Comment – Ms. Leduc raised concern over the proposed plan for prescribed burning. Mr. Garone stated that would be 2-3 years out; adding, the organization tries to perform 5-6 prescribed fires per year. Their forester and his company perform the prescribed burns and are extremely cautious; there has never been any issues. A plan is being developed and the organization will return to the Commission for approval. Mr. Garone made note that the fire chief has to sign off on the prescribed burn as well.

Mr. Ligor asked if the public will have access to the area. Mr. Garone stated the public currently has access to the area and they will have the same access except in the direct area where the work is being performed. Signage will be used to alert the public of the work being performed and a community open house will be held on January 9, 2017, for neighbors and abutters to obtain additional information on the proposed project.

Mr. Ligor questioned whether or not the clearing will allow motor bikes riders access to the area. Mr. Garone stated that the material left behind on the ground from the clearing will not be desirable for bike riders. A discussion ensued.

Chm. Gray asked what time of year will the proposed prescribed burn occur. Mr. Garone stated typically in the spring or fall; however, there are many factors to consider.

Chm. Gray asked what provisions are taken to flush the area of Eastern Box Turtle or other wildlife that may exist in the area. Mr. Garone discussed the process, he stated they will be working with Natural Heritage & Endangered Species and will follow all of their best management practices.

Ms. Leduc asked if there will be an undisturbed buffer left or will the proposed clearing go right to the edge of the saltmarsh. Mr. Garone stated there will be a buffer on the side by the residences; but in the forest area, they want to go to the edge where the White Pines have grown. A brief discussion transpired with regard to ash migration and water contamination.

Agent Comment – Mr. Haines briefly explained how the applicant’s submitted NRCS Management Plan meets the requirements set forth in M.G.L. Chapter 131, Section 40.

Public Comment – Ms. Frappier expressed concern with the proposed prescribed burn occurring in the spring. She feels it may be better to conduct the burn in the fall to avoid disturbing wildlife which may be nesting in the area. A discussion ensued.

Additional Board Comment - Mr. Ligor asked if soil conditions are checked prior to conducting a burn. Mr. Garone explained the various prescriptions that are considered prior to conducting a burn; i.e., vegetation wetness, drought, humidity, wind direction, wind speed etc.; it’s an extremely regulated activity.

Mr. Haines noted that when the cutting plan is performed, there are Conditions under the Wetlands Protection Act that are automatically initiated.

After a brief discussion with regard to Commission members visiting the site, Mr. Garone concluded by thanking the Commission for opportunity to present the proposed plan.

- Review of the Town of Bourne’s Special Conditions – Mr. Haines stated some of the Special Conditions seem to be repetitive and would like to see if some of them may be combined.

He referred to Special Condition 3 and By-law Condition 8 and feels they can be combined. After a brief discussion, it was decided to keep them separate.

Special Condition 5 – The current wording is incorrect. The board agreed to revise the language to say; in full compliance with Appendix G of 780 CMR Mass. State Building Code.

Special Condition 9 – Mr. Haines recommends adding a sentence requiring additional erosion controls to be stockpiled on site. The Commission agreed.

A brief discussion transpired with regard to the agent creating a cover letter with a re-emphasis of Special Condition 28, which at the discretion of the agent, may require the contractor to meet onsite with the agent to review the project prior to commencing.

Special Conditions 20 and 24 – Mr. Haines stated these are almost universally continued in perpetuity. The agent is going to incorporate those Conditions to automatically be applied in all NOIs.

Mr. Szwed asked why the Conditions are listed in the order they're currently listed in. A brief discussion transpired with regard to renumbering the Orders.

Special Condition 26 – Chm. Gray suggested relocating this Condition to the docks, floats, dredging section.

Special Condition 27 – Mr. Haines questioned whether or not this should be two separate Conditions. He explained why he thought it should be separated, the board agreed.

Docks and Piers – Mr. Haines feels almost all of these Conditions are pursuant to the regulations of the Town By-law rather than M.G.L. c. 131, s. 40, Conditions. After a brief discussion, the board agreed that mostly all of these Conditions are pursuant to the regulations of the Town By-law.

-Review of Bourne Conservation By-laws – Mr. Haines would like the header to read as it does in the Wetland Protection By-law; Wetland Protection By-law, Article 3.7 Wetland and Natural Resources Protection As Amended at Town Meeting October 26, 2009. The board agreed.

- Bourne's Special Conditions 2 & 3 (Scenic Roads Act / Shade Tree Act) – Mr. Haines explained that almost every major road in Bourne is considered to be a scenic road. Additionally, the cutting of any public trees requires a permit. He is currently working with George Sala to streamline these because if these Special Conditions are applied to a project unnecessarily, it causes significant delays for the applicant. After a brief discussion, the board decided to remove these two Conditions from the Order of Conditions checklist.

- Special Condition 6 – Mr. Haines is concerned with the language in this Condition. After a brief discussion, the board decided to revise the language in this Condition.
- Special Condition 7 – After a brief discussion, the board decided this Condition is necessary and should remain on the Order of Conditions checklist.
- Special Condition 10 – After a brief discussion, the board decided to revise the language in this Condition.
- Special Condition 11 – After speaking with the Board of Health, Mr. Haines revised the language in this Condition.
- Special Conditions 12, 13 and 14 – Mr. Haines feels these are valid Conditions. The board agreed, they will remain on the checklist.

Mr. Haines supplied the board with additional Special Conditions he uses frequently and stated he would like them to be added to the Order of Conditions checklist. A discussion ensued.

- Review of Bourne Conservation Commission Policy 10-3, Policy regarding the Flood Zone. – After a brief discussion, the board decided to revise this policy to allow the agent to decide which projects will require an RDA or an NOI. Mr. Haines will revise the policy and present it to the board at a future meeting for their approval.

- Review of Hideaway Village filing process with the Commission – Mr. Palumbo briefly explained to the board the existing filing process for applicants residing at the condominium complex, Hideaway Village. Mr. Haines noted two revisions he'd like to make to the policy; 1) in the third sentence from the bottom which discusses parcels 48, 49 and 50, Mr. Haines stated parcels 49 and 50 no longer exist, the assessor has combined parcels; therefore, this sentence should be revised. Also, the telephone extension listed for the Conservation Office needs to be updated. Mr. Haines will make the two revisions.

Chm. Gray asked if a policy number will be assigned to the Hideaway Village policy. Mr. Haines stated he will assign a policy number to it. Chm. Gray stated the other existing policy numbers will need to be updated. Mr. Haines will update the policy numbers.

Mr. Holmes moved and Mr. Palumbo seconded to approve the Hideaway Policy 17-2 as amended. With no discussion, the motion carried.

- Review of the draft Conservation Commission meeting schedule for 2017 – A brief discussion transpired concerning the 2017 meeting schedule; particularly, the meeting

scheduled during the week of the 4th of July. Chm. Gray suggested changing the schedule of the July meetings to the 2nd and 4th weeks in July.

After a brief discussion, **Mr. Holmes moved and Mr. Ligor seconded to adopt the 2017 Conservation Commission meeting schedule with a potential change to the July 6th and July 20th meeting dates.** With no discussion, the motion carried. 6-0-0.

- Discussion of severe weather protocol – deferred.

- Vote – Excuse Absent Members, if necessary – **Mr. Ligor moved and Mr. Palumbo seconded to excuse Betsey Kiebala.** With no discussion, the motion carried. 6-0-0.

- Acceptance of the November 17, 2016 Meeting Minutes – Mr. Haines and Ms. Leduc noted several revisions. **Mr. Palumbo moved and Mr. Szwed seconded to approve the minutes of the November 17, 2017 meeting as amended.** With no discussion, the motion carried 6-0-0.

- Report of Conservation Agent – 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. Holmes moved and Mr. Palumbo seconded to adjourn. With no discussion, the motion carried. 6-0-0. The meeting adjourned at 8:57 PM.

Minutes Submitted by: Carol Mitchell