

Conservation Commission Meeting Minutes

Town Hall Lower Conference Room

24 Perry Ave., Buzzards Bay, MA 02532

December 20, 2018

I. Call to order

Mr. Ligor called to order the meeting of the Conservation Commission at 7:00 PM on December 20, 2018. Mr. Ligor explained all reviews, unless otherwise stated, are joint reviews. Applications will be processed pursuant to the Massachusetts Wetlands Protection Act, M.G.L. c. 131, § 40 and pursuant to Article 3.7 of the Town of Bourne Wetlands Protection Bylaw.

Note: Mr. Ligor addressed the audience and explained the 5, 5, 5 rules; 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 and 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: Thomas Ligor, Melvin P. Holmes, Susan Weston and Paul Szwed,

Excused Members: Robert Gray, Rob Palumbo, Elise Leduc and Associate Member, Greg Berman.

Also Present: Sam Haines, Jack Dawley, Andrew Magee, Tim Santos, Brendan Mullaney and Ben Carson.

Request for Determination

- 1) Applicant: John C. Dawley
File Number: CC18-4
Representative: Same

276 Scraggy Neck Road, Cataumet

To maintain and repair existing concrete seawall within V Flood Zone and within 100 feet of a Wetland Resource Area.

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

John Dawley along with Ben Carson addressed the board and discussed the proposed project.

Board Comment – Mr. Holmes ~~and Mr. Ligor referred to site photographs and asked about the concrete application if the applicant will pour additional concrete on top of the existing footing to increase the height.~~ Mr. Carson The applicants stated they do not intend on increasing the height of the existing structure.

~~Mr. Ligor asked if the concrete will be mixed on the upland side and wheel barreled down to the site. Mr. Dawley stated and~~ the cement will be mixed on site and wheel barreled down; there will not be a cement truck involved.

Mr. Szwed ~~and Mr. Haines asked how the about~~ debris ~~will be removed from the site removal.~~ Mr. Dawley stated they will chip the existing concrete off, put the debris in five-gallon buckets and haul it off site.

~~Mr. Haines asked if drop cloths will be laid out to catch excess debris.~~ Mr. Carson stated they will lay a tarp or screen down if that's what the Commission prefers.

Agent Comment – Mr. Haines stated the seawall is below Mean High Water and takes a beating; it is definitely in need of repairs.

Mr. Haines asked ~~where the applicant plans on about material~~ stockpiling ~~the materials and how much stockpile he thinks he'll have.~~ Mr. Carson anticipates on having ~~half a pallet of mortar and half a pallet of mix~~ having minimal materials that will be covered by a tarp. ~~There will also be a small tool box, a generator and a small mixer stored upland. All other tools will be taken off site.~~ The site will be accessed by a driveway on the property.

Mr. Haines asked if the existing 25-foot vegetated mitigation area will have to be removed in order to have access. Mr. Carson stated he doesn't believe so. ~~He believes he can access the site by walking on top of the wall.~~

Mr. Haines stated as long as the work is completed by hand ~~with buckets and trowels~~, he doesn't have an issue with the project. He mentioned that the wall has been properly permitted under Chapter 91.

Board Comment – None.

Public Comment – None.

Mr. Ligor entertained a motion. **Mr. Holmes moved, Ms. Weston seconded a Negative Two Determination.** With no discussion, the motion carried. 3-0-0.

Mr. Haines explained the Negative Determination to the applicant.

2) Applicant: Krystal Harrington

File Number: CC18-44

Representative: Same

41 Little Bay Lane, Buzzards Bay

To install a shed within an AE Flood Zone and within 100 feet of a Wetland Resource Area.

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

Mr. Haines said the applicant was unable to attend and asked him to represent her. ~~He explained that he spent some time with the applicant trying to find a suitable location for the placement of the shed on her property.~~ Based on topography and zoning restrictions, the proposed location was the only one they could find that would accommodate a shed. He explained that according to the applicant, a shed previously existed on the site that was closer to the Coastal Bank. ~~She stated it was damaged by a tree limb; however, he did not see a previously existing shed in aerial photographs.~~ He stated the proposed location is within the 50-foot buffer, but it's no closer to the Resource Area than the corner of the existing house is. The property is located within the AE Flood Zone so the structure will have to be anchored and conform to the Building Code and FEMA requirements.

Board Comment – Ms. Weston noted an area of alteration to be restored was shown on the plan and questioned what it was. Mr. Haines stated there was a violation on this property. ~~The applicant had performed clearing and filling after their septic system was installed. They added fill to both Town Conservation land and some wetland.~~ He is currently working with the property owner on this violation. ~~He stated and it has nothing to do with~~ this not related this filing; the applicant is reusing an old plan.

Public Comment – None.

Mr. Ligor entertained a motion. **Mr. Holmes moved, Ms. Weston seconded a Negative Two Determination.** With no discussion, the motion carried. 3-0-0.

Notice of Intent

1) Applicant: Bruce and Keri Wenzel
File Number: SE7-
Representative: Marsh Matters Environmental
95/98 Tahanto Road, Pocasset

To replace trees that were removed, install cobble parking area, perimeter fencing, work on existing residence and landscape, and soil stabilization within an AE Flood Zone, 100 feet of a Wetland Resource Area and within 200 feet of a Riverfront.

(At the request of the applicant, the matter is continued to January 17, 2019)

2) Applicant: Scott Zeien, Trustee, Kingman Yacht Center Realty Tr.
File Number: SE7-2043
Representative: BSS Design, Inc.
1 Shipyard Lane, Pocasset

To replace ninety – 12” diameter wood pilings within a V Flood Zone, within 100 feet of a Wetland Resource Area and within 200 feet of a River Front.

Materials Reviewed – Site Photographs, Site Plan of Record, Response from Division of Marine Fisheries and DEP Wetlands Change Mapping.

(Continued from December 6, 2018)

Agent Comment - Mr. Haines stated the Commission delayed closing the hearing to await a response from Division of Marine Fisheries. A response has been received and they recommended the Commission condition the Order to require a siltation barrier be used across the inlet to avoid siltation at the entrance of the Red Brook Pond fish run. He spoke with the representative and they’ve agreed to the condition.

Board Comment – None.

Public Comment – None.

Mr. Ligor entertained a motion to close the public hearing. **Mr. Holmes moved, Ms. Weston seconded.** The motion carried. 3-0-0.

Mr. Haines - Draft Order of Conditions: All General Conditions, Special Conditions pursuant to M.G.L. Chapter 131, Section 40 numbers; 1, 2, 3, 7, 9, 10, 11, 12, 15, 18, 19, 27, 28, Special Conditions pursuant to the Bourne Wetlands Protection Bylaw; 14, 15, 16, 18, 20, 22, 23, 25 and the Additional Special Condition recommended by Division of Marine Fisheries.

Mr. Ligor 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. 3-0-0.

3) Applicant: Vincent Michienzi, Trustee
File Number: SE7-2046
Representative: Bracken Engineering, Inc.
85-93 Main St. Buzzards Bay

To rehabilitate an existing commercial building including construction of two additions, paving, landscaping and storm water facilities within an AE Flood Zone.

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

(Hearing under State Act Only. Continued from December 6, 2018)

Brendan Mullaney addressed the board. He stated the property is located within the AE Flood Zone only. ~~He presented the project on~~ December 6th ~~and a discussion transpired regarding storm water at the site.~~ The Commission requested additional information regarding the proposed installation of parking islands on the northern section adjacent to Cohasset Avenue ~~which will be the entrance to the parking lot.~~ He originally proposed a type of tree box storm water filter; however, the Design Review Committee were against the idea for aesthetic reasons. He agreed to revise the plan and install two separate rain gardens instead. Mr. Mullaney stated he discussed the proposal with George Sala, DPW Superintendent ~~and briefly discussed the raingarden construction, and he's on board with the concept. He is willing to work with the representative and applicant in order to make it work. The issue is, a lot of the storm water drainage in Buzzards Bay is tied into one outdated system. He's hoping to improve the existing conditions at the site. He discussed the location of an existing catch basin that one of the proposed rain gardens will surround. The plan is to reset the rim of the catch basin slightly lower than it currently is so the rain garden will collect rain water from the parking lot and Cohasset Avenue. A perforated under drain system is being proposed in both rain gardens which once rain water infiltrates down, it will connect back into the basins themselves. A new~~

~~catch basin is being proposed in the easterly rain garden and will be connected to the existing 12" storm water drain pipe that runs along Cohasset Avenue.~~ Mr. Mullaney stated a specific plant species list has not been provided yet ~~but because the Design Review Committee requested that a tree be planted into each rain garden. He stated trees aren't typically planted in rain gardens so he plans on taking that up with the Planning Board to see if they agree with the Design Review Committee's request.~~ Once they have Planning Board input, they will submit a plant species list to the agent. Mr. Mullaney briefly discussed other revisions made to the plan and stated the applicant is considering additional site improvements and will consult the agent if he decides to implement them.

Board Comment – Mr. Ligor opened a brief discussion regarding the grade of the property and existing drainage at the site.

Mr. Holmes asked where the sewage will be treated. Mr. Mullaney said it will be treated in Wareham. A brief discussion transpired regarding the cost to treat the sewage.

Agent Comment – Mr. Haines ~~expressed he was happy with the revised plan. He recommended a condition be added to the Order that the DPW director review and approve any drainage prior to the start of construction. He stated the representative did the best he could to address any issues he had with the proposed project.~~

Public Comment – None.

Mr. Ligor entertained a motion to close the public hearing. **Mr. Holmes moved, Ms. Weston seconded.** The motion carried. 3-0-0.

Mr. Haines - Draft Order of Conditions: All General Conditions, Special Conditions pursuant to M.G.L. Chapter 131, Section 40 numbers; 1, 2, 3, 4, 7, 9, 10, 12, 14, 15, 16, 17, 18, 19, 26, 27, 28, 29, and the Additional Special Conditions; ASC (1) the Order automatically incorporates General Construction Notes numbers; 11, 16, 18, 19, 23, 24, 25, 27, General Grading and Drainage Notes numbers; 1 and 9, Construction Sequencing numbers; 1-17, Erosion and Sediment Control Notes numbers; 1-19, Storm Water Facility Operation and Maintenance numbers 1-6; which were referenced as part of the site plan sheet labeled Construction Notes dated November 13, 2018, ASC (2) annual and rainfall event storm water inspection and maintenance is required for the storm water system as outlined in the site plan Storm water facility operation and maintenance notes. The storm water inspection and maintenance documentation shall be made available to the Commission or its agent upon request, ASC (3) this Order requires the Bourne DPW director review and approve the storm water design prior to the start of construction. ASC (2) will continue in perpetuity.

Mr. Ligor 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. 3-0-0.

4) Applicant: Diane Ducie, Co. – Trustee 24 Eastward Ave Realty Trust
File Number: SE7-2048
Representative: Bracken Engineering, Inc.
24 Eastward Avenue, Pocasset

To install erosion control measures, native vegetation plantings, removal of invasive vegetation, supplemental fill and grading within an AE Flood Zone, V Flood Zone and within 100 feet of a Wetland Resource Area.

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

(Continued from December 6, 2018)

Brendan Mullaney addressed the members and discussed revisions made to the plan based on comments made at the previous hearing. ~~The revised plan shows the area of planting has been increased along the entire 13' contour of the slope. A walking path has been created to allow for beach access. A comment was made at the previous hearing regarding the possibility of installing a set of stairs vs. the pathway; however, most of the land is located on the association's property and without their permission, that isn't possible. Mr. Mullaney stated he does plan on approaching the association members when they return for the summer to discuss that and the possibility of repairing the existing seawall/revetment that was built by the property owner's father in the 1950s. He then discussed the species of plantings being proposed, pointing out that without the supplemental fill, much of the proposed work would fall under the Landscape Policy. Mr. Mullaney requested the Commission not require demarcating the area as proposed by the agent at the previous hearing. He stated the property owner is concerned that granite posts or boulders will hinder her grandchildren's ability to play in the area.~~

Board Comment – Mr. Ligor asked the representative what the association's major objection was with repairing the revetment, when he met with them previously. ~~Mr. Mullaney thinks there may be a past history between the association and the applicant's family. Mr. Haines stated he was told by several association members that a lot of sand has been lost on the beach because of the revetment and they're concerned that more sand will be lost if repair of the revetment is allowed.~~ A discussion of the projects history ensued.

Agent Comment – Mr. Haines stated ~~to he gave his report at the previous hearing but reminded~~ the members that the Coastal Bank is moving seaward so the Commission will have to determine whether they feel the proposed project will have any adverse impacts on the functions and values of that Coastal Bank. He said he likes the expanded restoration area but expressed concern with planting low growing shrubs because they have a tendency to be turned into grass. The Commission will have to determine whether they want any type of demarcation installed in that area. He reminded the members that this project was presented as a storm damage prevention mitigation project. Mr. Haines recommended conditioning the Order that all erosion controls material be biodegradable.

Public Comment – None.

Mr. Ligor entertained a motion to close the public hearing. **Mr. Szwed moved, Ms. Weston seconded.** The motion carried. 3-0-0.

Mr. Haines - Draft Order of Conditions: All General Conditions, Special Conditions pursuant to M.G.L. Chapter 131, Section 40 numbers; 1, 2, 3, 7, 9, 10, 11, 12, 14, 15, 18, 19, 21, 22, 25, 26, 27, Special Conditions pursuant to the Bourne Wetlands Protection Bylaw numbers; 4, 5, 7, and the following Additional Special Conditions; ASC (1) upon completion of the proposed work the applicant shall apply for a Certificate of Compliance for both this filing and historical filing SE7-1815, ASC (2) the area landward of the existing boulder/cobble wall as show in red on the site plan of record must be planted with native shrubs and maintained as a naturalized area. A Planting Plan showing the species and spacing of the plants must be submitted to the Commission and approved by its agent prior to construction, ASC (3) no new accessory structure or structural additions are allowed further seaward than the footprint of the existing deck as shown as the structure. ASC 2 and ASC 3 shall continue in perpetuity.

A brief discussion transpired as to whether the Commission would like some sort of demarcation installed. It was decided the representative will work with the agent on the matter.

~~Mr. Haines explained, because they are moving the Bank, that ASC 3 is to prevent the applicant from moving the home forward any further than it already is.~~

Mr. Ligor 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. 3-0-0.

5) Applicant: Denis Walsh

File Number: SE7-2045
Representative: Holmes and McGrath
262 and 272 Scraggy Neck Road, Cataumet

To perform Coastal Bank stabilization and restoration within a V Flood Zone and within 100 feet of a Wetland Resource Area.

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

(Continued from December 6, 2018)

Tim Santos along with Andrew Magee discussed revisions made to the proposed project as requested by several Commission members at the previous hearing.

Board Comment – Mr. Ligor asked Mr. Magee to clarify from the aerial photographs which of the two trees will try to be saved. Mr. Magee stated they will try to save the American Sycamore.

Mr. Ligor asked the representative to use the aerial photograph to pinpoint the location of the proposed fiber rolls. Mr. Magee discussed a 30' gap between the existing wall and the foundation of the structure. The fibers rolls will offer a softer solution to prevent scouring that's been occurring in the area.

Mr. Ligor asked the agent whether he thought the revisions made address Ms. Leduc's and Mr. Berman's concerns that were voiced at the previous hearing. Mr. Haines stated yes. ~~He spoke with Mr. Berman who would normally be concerned with the propylene used in the fiber rolls but since they're being placed between a revetment and the house, he's not as concerned.~~ He requested that the logs be tagged. Mr. Magee agreed. ~~Mr. Haines feels the representatives responded to the Commission's comments very well and is happy with the revised plan.~~

Public Comment – None.

Mr. Ligor entertained a motion to close the public hearing. **Mr. Holmes moved, Ms. Weston seconded.** The motion carried. 3-0-0.

Mr. Haines - Draft Order of Conditions: All General Conditions, Special Conditions pursuant to M.G.L. Chapter 131, Section 40 numbers; 1, 2, 3, 7, 9, 10, 12, 14, 15, 18, 19, 22, 27, 28, Special Conditions pursuant to the Bourne Wetlands Protection Bylaw numbers; 2, 4, and the following Additional Special Conditions; ASC (1) herbicide application must be performed by a licensed applicator. Herbicide must be applied

directly to the cut stem of the invasive plant. No foliar spraying of herbicide is permitted under this Order. ASC (2) this Order allows for the continued hand weeding of invasive species beyond the length of this Order. Annual coordination and administrative approval from the Conservation agent is required prior to any herbicide treatment conducted outside of the permit period to determine if a new filing is required, ASC (3) the proposed nourishment cover material must consist of soil compatible with the existing substrate, ASC (4) identification tags are required to be attached to each core roll to ensure proper disposal if the rolls are dislodged from the site. The applicant is responsible for recovering dislodged core rolls so that they do not become floating debris, ASC (5) this Order does not allow for the use of high tenacity mesh on the two upper rolls and the use of non-biodegradable materials must be minimized.

Mr. Holmes expressed that he would like the Sycamore saved.

Mr. Ligor 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. 3-0-0.

6) Applicant: Joseph Saade
File Number: SE7-2033
Representative: GAF Engineering Surveyors
51 Pine Ridge Road, Buzzards Bay

To remove and reconstruct an existing licensed pier, gangway and float, as well as licensing an existing mortared stone seawall within a V Flood Zone and within 100 feet of a Wetland Resource Area.

(At the request of the applicant, the matter is continued to January 17, 2019)

Other Business:

► Signature of Order of Conditions for SE7-2044, 11B Wild Rose Dr. – Ms. Weston asked if a Commission member is allowed to sign the Order even if they weren't present for the hearing. Mr. Haines stated yes, they can; the majority of the Commission is needed to issue.

► Discussion & Vote – 2019 Conservation Commission hearing dates – after a brief discussion, **Mr. Holmes moved, Mr. Szwed seconded to accept the draft 2019 Conservation Commission hearing dates.** **The motion carried. 3-0-0.**

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► Vote to excuse absent members, if necessary – **Mr. Szwed moved, Mr. Holmes seconded to excuse the absent members.** With no discussion, **the motion carried. 34-0-0.**

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► Acceptance of Previous Meeting Minutes – Mr. Ligor entertained a motion to approve the minutes of the November 15, 2018 meeting. **Mr. Holmes moved, Ms. Weston seconded to approve the minutes of the November 15, 2018 meeting.** With no discussion, the **motion carried. 34-0-0.**

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► Report of the Conservation Agent – Mr. Haines briefly discussed a request received for the NSTAR Bourne Switching Station replacement project. It appears to be outside of Conservation jurisdiction. If anyone is interested, the information is available in the office.

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

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

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

II. Adjournment

Mr. Holmes moved, Ms. Weston seconded to adjourn. With no discussion, the motion carried. 3-0-0. The meeting adjourned at 8:03 PM.

Minutes submitted by: Carol Mitchell