

Conservation Commission

Meeting Minutes

Town Hall Lower Conference Room

24 Perry Ave., Buzzards Bay, MA 02532

December 6, 2018

I. Call to order

Mr. Palumbo called to order the meeting of the Conservation Commission at 7:00 PM on December 6, 2018. Mr. Palumbo 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. Palumbo 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: Rob Palumbo, Thomas Ligor, Elise Leduc and Associate Member, Greg Berman.

Excused Members: Robert Gray, Susan Weston, Paul Szwed and Melvin P. Holmes.

Also Present: Sam Haines, Carol Mitchell, Linda Cronin, Glen Harrington, Dwayne Johnson, Bob Schofield, Richard Lynch, Jeff Ryther, Chad Rossi, Carla Forlivesi, Tammy Staiger, Tim Santos, Andrew Magee, Jeremy Schaub, Bradley Bertolo, Michael Borselli and Glen Cannon (8:58)

Request for Determination

1) Applicant: Nancy Bolles, Tr.
File Number: CC18-41
Representative: CSN Engineering
183 Tahanto Road, Pocasset

To repair failed septic system 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.

Linda Cronin addressed the board and discussed the proposed project.

Mr. Haines mentioned that he didn't observe erosion controls on the plan. Ms. Cronin referred to the plan stating the erosion controls will be the limit of the work.

Mr. Haines asked if the existing large Oak tree will remain. Ms. Cronin stated she intends to save the tree.

Agent Comment – Mr. Haines stated other than recommending the erosion controls at the northwest limit of work and saving the Oak tree, he doesn't have any issues with the project and the health inspector did not foresee an issue with the proposed location either.

Board Comment – None.

Public Comment – None.

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

2) Applicant: Terry L. and Dwayne Johnson
File Number: CC18-42
Representative: Same
3 Beachwood Road, Monument Beach

To repair a failed septic system within 100 feet of a Wetland Resource Area.

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

Glen Harrington addressed the board. With him was the property owner, Dwayne Johnson. Mr. Harrington provided a brief history of the property stating when the house was constructed, an easement was granted on the neighboring property; which is where the existing leaching trench is located. The trench has failed and is backing up into the

system and the owner is having to pump the system regularly to keep that at bay. The proposal is to keep the existing 1,000-gallon septic tank and install a 1,000-gallon pump chamber. He mentioned because of the groundwater adjustment, the system will have to be raised slightly. Mr. Harrington then briefly discussed the proposed location of the system and its proximity to the Resource Areas located on the property. Mr. Harrington stated because this is an emergency situation, the Board of Health has approved the plan; pending Conservation approval.

Agent Comment – Mr. Haines stated he spoke with the health agent regarding the emergency certification and she has not issued an emergency certification yet; but is willing to if necessary. At his November 28, 2018 site inspection, Mr. Haines observed that a portion of the wetland had been cleared and converted to grass. He looked at the aerials of the area and it appears that there has been significant disturbance within the 100-foot buffer since 2016. He feels that the filing requires significant work to restore the buffer as well as the wetland area; which will probably require a Notice of Intent. Mr. Haines then discussed the Commission's options; they can either keep the filing open until the applicant returns with a planting plan; or, they can issue a Negative Determination on the septic with an enforcement order, requiring the applicant to file a Notice of Intent within 60 days; or, they can issue a Negative Determination and allow the applicant a certain period of time to submit a planting plan to avoid the enforcement order.

Mr. Palumbo asked the agent if he's spoken to the homeowner about a violation that occurred on the property. Mr. Haines stated he spoke to the representative. Mr. Harrington said he discussed the violation with the property owner, who stated he performed clearing because of storm damage that occurred in the spring. Mr. Palumbo interjected stating based on the agent's report, there appears to be more than storm damage clearing that's occurred. Mr. Johnson stated he had several trees fall. Mr. Palumbo reiterated his previous statement. Mr. Haines referred to site photographs to elaborate on the amount of clearing that's occurred. Mr. Johnson explained he's been cleaning up his back yard over the past year and the grass that's grown in is basically scrub from him grading woodchips and simply cleaning up his back yard. Mr. Haines explained that grading woodchips and cleaning up his yard is a wetland alteration and is considered a violation. The agent stated the area will have to be restored and the applicant will need to submit a landscaping plan with native vegetation to restore that buffer. Mr. Haines explained there was a previous filing, and a limit of work was previously approved, so he'll have to work with a landscaper and file a Notice of Intent. Mr. Johnson stated that was his intent all along.

Board Comment – Mr. Palumbo advised the applicant that if he's willing to work with the agent and restore the buffer, an enforcement order won't be necessary. Mr. Johnson agreed.

Ms. Leduc asked the agent if he approves of the proposed septic system location. Mr. Haines stated he does.

Mr. Ligor suggested approving the proposed project under a Negative Determination with a condition that a planting plan must be submitted within 60 days.

Public Comment – None.

Mr. Palumbo entertained a motion. **Mr. Ligor moved, Ms. Leduc seconded a Negative Two Determination with 60 days to submit a planting plan.** After a brief discussion, the motion carried. 3-0-0.

Notice of Intent

1) 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 and DEP Wetlands Change Mapping.

Mr. Palumbo mentioned that Mr. Ligor is an abutter to this property and would normally recuse himself but given the four person quorum, he would be willing to invoke the rule of necessity if there were no objections. He gave the representative the option to either move forward with his presentation with Mr. Ligor sitting on the hearing or continuing the matter to a future date. The representative opted to present the matter that evening. Mr. Palumbo asked if anyone from the public was opposed to Mr. Ligor sitting on the hearing. No one opposed.

Jeff Ryther addressed the board and discussed the proposed project.

Agent Comment – Mr. Haines said there are some regulations that this project will have to overcome. He read Bourne's Wetland Regulation 1.16, 1 (e) 17., which states; New piers, or replacement, expansion or substantial repair of an existing pier, shall be for

seasonal use only. He stated they can overcome that regulation and explained the project meets performance standards. It was entirely permitted prior to 2000; including the Chapter 91 License. The pier isn't functional in current use; therefore, it is his opinion that the project does meet the criteria and can be permitted under the regulations. Mr. Haines noted that he spoke with the harbormaster who did not identify any issues or constraints on the project. He noted the site is not located within rare species habitat and he has not heard back from Division of Marine Fisheries (DMF) on the project yet.

Board Comment – Mr. Palumbo asked if DMF input is required in order to move forward. Mr. Haines explained DMF input is guidance not regulatory. There's nothing in the regulations that requires their input; however, he always prefers their input on in-water work.

Mr. Berman asked, besides CCA what other material for the pilings might DMF recommend. Mr. Haines stated Black Locust, tropical hardwoods or Cedar.

Ms. Leduc asked the representative what the estimated start date will be. Mr. Ryther said it was supposed to be this fall, but it's been pushed back several times. After a brief discussion it was decided to continue the matter to December 20, 2018.

Public Comment – None.

Mr. Palumbo entertained a motion to continue the matter to December 20, 2018. **Mr. Ligor moved, Ms. Leduc seconded to continue the matter to December 20, 2018.** With no further discussion, the motion carried. 3-0-0.

2) Applicant: Richard Reed
File Number: SE7-2044
Representative: Self
11B Wild Rose Dr. Buzzards Bay

To raze and rebuild a new dwelling within a V Flood Zone and within 200 feet of a River Front.

Materials Reviewed – Site Photographs, Site Plan of Record, Hideaway Village Letter of Authorization and DEP Wetlands Change Mapping.

Chad Rossi, Operations Manager at Hideaway Village, expressed his support of the project.

Richard Reed provided a brief description of the proposed project.

Agent Comment – Mr. Haines stated the existing house is dilapidated and is within the Riverfront Area. He said there are seven or eight homes in between this house and the actual brook and there are seven or eight homes between this house and the Coastal Resource Areas; which are coastal beach and open ocean. He mentioned there was an issue with the abutter notification regarding the project description. There was a cut and paste error which said the house had been torn down and a parking lot was being constructed. However, the abutter notification did include a time, place and how to obtain additional materials; which is what's required under the Wetlands Protection Act. He will leave it up to the Commission to determine whether the filing may proceed; however, it is his opinion that it can proceed. Mr. Haines commented that it is difficult to apply the Riverfront Act to projects located within Hideaway Village. The performance standards for redevelopment does not allow a structure to be moved closer to the river; which he thinks the project meets, does not allow a greater than 10% alteration of the degraded area; which he also thinks is met; but, it's difficult to determine because this is a condominium complex; not individual plots. Every project requires site improvement under the Wetlands Protection Act, in a Riverfront Area. The existing building doesn't currently have gutters. If gutters and drywells are installed on the new dwelling, Mr. Haines feels the project will meet that criteria. He noted that based on Policy 92-1, the project appears to be within a Coastal Bank. The Coastal Bank has nine houses in front of it. The foundation will be in same general location and the Bank has been so altered, that although it does provide some storm damage prevention for upgradient homes, he doesn't believe that this will have any more adverse impacts than what's currently existing.

Board Comment – Mr. Ligor asked if the new structure will be in the same footprint as the existing structure. Mr. Reed stated it will be.

Mr. Ligor asked if some of the large Pine trees will need to be removed. Mr. Rossi said he doesn't think any trees will have to be removed; only trimming to allow for construction equipment access. He stated Hideaway Village has a strict tree removal policy.

Mr. Palumbo asked whether approval has been received from Hideaway Village. Mr. Haines stated approval has been received.

Mr. Berman asked what type of foundation is being proposed. Mr. Reed stated it will be concrete; poured foundation. A brief discussion transpired regarding the house's proximity to the Flood Zone.

Public Comment – None.

Mr. Palumbo entertained a motion to close the public hearing. **Ms. Leduc moved, Mr. Ligor seconded to close the public hearing.** With no discussion, 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, 16, 18, 19, 21, 24, 27, Special Conditions pursuant to the Bourne Wetlands Protection Bylaw; 4, 5, and 7. There are no Additional Special Conditions.

Mr. Palumbo entertained a motion to move the Draft Order of Conditions to the Final Order of Conditions. **Mr. Ligor moved, Ms. Leduc 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 and within 100 feet of a Wetland Resource Area.

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

(Hearing under State Act Only)

Brendan Mullaney addressed the members. He described the proposed project, the proposed usage and the proposed parking area. Mr. Mullaney discussed the reduction in impervious area at the site and the proposed Storm Water Management Plan.

Agent Comment – Mr. Haines referred to the site plan sheet titled Construction Notes. He feels the Commission should incorporate some of the General Construction Notes as a condition to the Order. Numbers; 11, 16, 18, 19, 23, 25, 27, General Grading and Drainage Notes numbers; 1 and 9, Aids and Construction Sequencing numbers; 1-17, Erosion and Sediment Control Notes numbers; 1-19, Storm Water Facility Operation and Maintenance numbers 1-6. He said the Storm Water Management Plan requires rainfall event monitoring as well as annual monitoring of the storm water system. He suggested the Commission condition the Order that the storm water inspection and maintenance documentation be made available to the Commission or the agent upon request. Mr.

Haines expressed concern about the storm water flowing into the town system because he doesn't know exactly where it goes.

A brief discussion transpired regarding ways to increase the recharge rate on the property.

Board Comment – Mr. Berman asked what the green shaded areas at the top of the plan are. Mr. Mullaney explained those are proposed landscape islands that will be vegetated.

Ms. Leduc asked if he's determined what species of plant or shrubs is being proposed. Mr. Mullaney stated that hasn't been determined yet; that will be decided after the site plan review. Mr. Haines explained because this is located in an AE Flood Zone only, in the past, the Commission has allowed some leniency with regard to the type of vegetation that will be planted. Mr. Mullaney stated they will recommend native plants be installed; however, when it comes to screening, there might be non-native plants that are better suited, if allowed by the Commission.

Mr. Berman asked, if required by the Commission, where on the property a rain garden or swale might fit. Mr. Mullaney stated there may be an opportunity to install a tree box unit or similar in the proposed landscape islands. He explained that there isn't a lot of space because of the amount of required parking. Mr. Haines thinks the northeast island would be an ideal location because most of the grading on the site is aimed toward that.

Public Comment – Carla Forlivesi stated she is in favor of revitalizing Buzzards Bay but expressed concern over flooding that occurs on the site during rain storms. Mr. Mullaney explained the proposed measures that will be taken to prevent flooding from occurring.

Ms. Forlivesi asked if the location of the dumpsters will be open. Mr. Mullaney explained they are proposing to house the dumpsters in a garage.

Ms. Forlivesi asked who will be in charge of maintaining the trees on the property once the project is complete. Mr. Mullaney stated the property owner will be charged with maintaining the vegetation.

Ms. Forlivesi briefly discussed the parking layout. Mr. Haines advised the abutter that parking or noise concerns should be addressed with the Planning Board.

After a brief discussion regarding drainage on the site, Mr. Mullaney requested a continuance to December 20, 2018.

Mr. Palumbo entertained a motion to continue the matter to December 20, 2018. **Mr. Ligor moved, Ms. Leduc seconded to continue the matter to December 20, 2018.** With no further discussion, the motion carried. 3-0-0.

4) Applicant: John D. Matsinger, Jr.
File Number: SE7-2047
Representative: Bracken Engineering, Inc.
20 Highland Avenue, Monument Beach

To raze and reconstruct a single-family dwelling, including installation of a new Title V septic and all associated grading, landscaping, utilities and appurtenances 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.

Brendan Mullaney addressed the members and described the proposed project. Additionally, he discussed the Resource Areas located on or near the property. Mr. Mullaney stated a septic inspection was performed with the health agent who determined the existing system is adequate to be utilized for the proposed structure. He stated there is slight regrading being proposed and there is a possibility that the project may require Zoning Board of Appeals approval.

Mr. Haines noted there aren't any erosion controls depicted on the plan. He would like to see some added on the eastern edge of the property to prevent soil from traveling into the street. The representative agreed.

Agent Comment – Mr. Haines stated this is a small, corner lot with setback issues as stated by the representative. The site is within an ACEC so the Commission's jurisdiction does extend, but it doesn't have a bearing on this property. He reiterated the need for erosion controls on the eastern side of the property. He feels this is a straightforward raze and rebuild and doesn't see any issues with the project.

Board Comment – Mr. Berman asked if there will be living space as part of the basement. Mr. Mullaney stated no, the structure will have to be elevated to meet Flood Zone requirements.

Public Comment – None.

Mr. Palumbo entertained a motion to close the public hearing. **Ms. Leduc moved, Mr. Ligor seconded to close the public hearing.** With no discussion, 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, 11, 12, 15, 16, 18, 24, 27, 28, 29 Special Conditions pursuant to the Bourne Wetlands Protection Bylaw

Article 3.7 numbers; 4, 5, 9, and the Additional Special Condition ASC (1) erosion controls on the eastern side of the property is required.

Mr. Palumbo entertained a motion to move the Draft Order of Conditions to the Final Order of Conditions. **Ms. Leduc moved, Mr. Ligor 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: 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, Site Plan of Record and DEP Wetlands Change Mapping.

Brendan Mullaney addressed the members. He stated there is an existing, historic seawall/revetment type structure that was built in the 1950s that consists of a combination of boulders and cobbles and provides some type of hard armored protection to the Bank. The current owner of the property was originally seeking to repair or substantially reconstruct this seawall; however, after performing a property survey, it was discovered that a large portion of the seawall is not on her property; but rather on the Beacon Point Association property. The property owner's father installed the seawall in the 1950s, but Beacon Point Association would have to agree to the restoration. Since they have not come to a consensus, the property owner would like to take some measures to provide erosion control because over the years the Bank has suffered erosion from some of the storms. Mr. Mullaney then described the proposed project.

Agent Comment – Mr. Haines stated there was a 2012 filing associated with this property; SE7-1815 which has some improvements to the wall as well as some erosion control vegetation stabilization on the property. It doesn't appear as though any of that work was ever performed and no COC was issued. After speaking with the representative, the property owner would like to perform the work associated with this filing then return to close out both. Mr. Haines feels that makes sense. It is his opinion since the project is designed for storm damage prevention, the area shown in red on the plan shouldn't be converted to grass. The root system of turf grass doesn't provide the

storm damage prevention they're looking for; so, at a minimum the Commission may want shrubby vegetation planted in that area.

Mr. Palumbo asked the representative if that's what the plan is calling for. Mr. Mullaney stated yes. With the exception of the footpath, the area shown in red will be planted with native woody vegetation.

Additional Agent Comment – Mr. Haines said the regrading within a Velocity Zone is fairly minimal and it doesn't appear to him that the additional non-structural fill will have adverse impact on the surrounding properties; but he's not an expert on the matter. He agreed with the representative that there are low spots underneath the existing cobble wall caused from voids within the wall. He stated the Commission needs to decide whether they're comfortable with allowing the moving of the Coastal Bank seaward and whether they feel it would have any adverse impact on the functions and values of the Coastal Bank.

Board Comment – Mr. Berman is hoping the woody vegetation will maintain the slope and slow down the erosion. He suggested working with the association in the future to clean up the rocks on the beach. He expressed concern that regrading may change the path of storm water runoff in the future.

Ms. Leduc opened a brief discussion regarding the regrading and shared Mr. Berman's concern about the grade change being proposed and suggested expanding the area where the woody vegetation is proposed to be planted. A brief discussion transpired.

Ms. Leduc asked the representative if he'll be coordinating with the agent prior to commencing work. Mr. Mullaney stated he is willing to coordinate with the agent prior to the implementation of work.

Ms. Leduc suggested installing a rock path or steps in place of the footpath. A discussion ensued.

Public Comment – Bob Schofield, president of the Beacon Point Association, addressed the members. He stated he has lived in the development for the past 50 years. He explained the beach located in the front of this property is not a sandy beach and has never been a sandy beach. He provided a brief history of the property and discussed the amount of erosion that's occurred over the years. He mentioned the possibility of collaborating with the property owner in the future to restore the revetment.

Mr. Palumbo entertained a motion to continue the matter to December 20, 2018. **Mr. Ligor moved, Ms. Leduc seconded to continue the matter to December 20, 2018.** With no further discussion, the motion carried. 3-0-0.

6) 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.

Tim Santos along with Andrew Magee and Jeremy Schaub discussed the proposed project.

Agent Comment – Mr. Haines noted there are several members of the Commission who are more experienced with fiber roll installation than he is, so he'll rely on their experience when conditioning the project. The Bank on the west side of the revetment is clearly eroding as a result of winter storms. Complicating matters is, there is a cottage located on the water and portions of the cottage appear to be in the water. The applicant is looking for a solution that will slow the erosion without undermining the structure on the eastern side. The area that's proposed for clearing consists of turf grass, shrubs as well as invasive vines and is proposed to be restored with a meadow habitat. The proposed plantings within the meadow habitat appear to be appropriate. The applicant is also asking for an ongoing condition based on the site plan that allows for invasive treatment and weeding beyond the expiration of the Order.

Board Comment – Ms. Leduc asked if the ongoing treatment includes management of native species. Mr. Magee stated no, it will be for Bittersweet, Multiflora Rose and Honeysuckle.

Ms. Leduc noted differences with the water level in the site photographs. A brief discussion transpired regarding the Mean High-Water line that's shown on the plan. She suggested that the representative find a better way to define Mean High-Water or she thinks the system will fail. A discussion ensued.

Mr. Berman expressed concern that beach grass won't grow in the proposed planting area because it's so shady. Mr. Haines agreed.

Mr. Berman opened a brief discussion regarding the material that the high-density fiber rolls are wrapped in.

Ms. Leduc recommended grain sized sampling be performed for the nourishment portion of the project.

Public Comment – None.

Mr. Palumbo entertained a motion to continue the matter to December 20, 2018. **Mr. Ligor moved, Ms. Leduc seconded to continue the matter to December 20, 2018.** With no further discussion, the motion carried. 3-0-0.

7) 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.

(Continued to December 20, 2018)

8) Applicant: Daniel and Robin Pucillo
File Number: SE7-2042
Representative: Falmouth Engineering, Inc.
80 Old Damn Rd., Monument Beach

To renovate existing dwelling and construct a new septic system within an AE Flood Zone and within 100 feet of a Wetland Resource Area.

Materials Reviewed – Site Photographs, Revised Site Plan of Record, Email from Michael Borselli concerning the existing foot bridge, and DEP Wetlands Change Mapping.

(Continued from November 15, 2018)

Michael Borselli explained he made a detailed presentation at the previous hearing. At that time a DEP file number hadn't been issued and since the last hearing, minor changes have been made to the plan. Mr. Borselli explained the float that was being stored on the marsh has since been removed and the property owner is working to obtain historical

information on the float. Mr. Borselli also discussed an email he submitted to the agent regarding the existing foot bridge.

Agent Comment – Mr. Haines stated a DEP file number has been issued. The float has been removed from the saltmarsh and the damage wasn't as extensive as originally thought and feels confident it will grow back on its own. Mr. Haines said there weren't any issues with either the addition or the septic system at the previous hearing. The issues remaining were with the saltmarsh walkway and the dock and pier. He noted that although the saltmarsh walkway may not require a Chapter 91 License; it doesn't meet their guidance in terms of height and construction methodology. He suggested the Commission condition the Order that if it requires substantial repair or replacement, that a Notice of Intent be required. He said could not find any permitting for the dock and pier. The homeowner is trying to locate historical photos. He said the Commission can condition the Order that the dock will require a separate filing with the Conservation Commission and the applicant must obtain a valid Chapter 91 License and/or a Section 10A Harbormaster Permit prior to any dock installation.

Mr. Borselli stated the property is located within an ACEC and a Chapter 91 License cannot be obtained for a dock located within an ACEC unless there's a Harbor Management Plan; which there isn't one, unless the dock predates promulgation of the ACEC. The property owner is trying to demonstrate the dock is older than the ACEC, then he can obtain a Chapter 91 License.

Board Comment – Mr. Berman opened a brief discussion regarding an amnesty period back in the 90s for Chapter 91 Licenses.

A brief discussion transpired regarding the language of the Order.

Public Comment – None.

Mr. Palumbo entertained a motion to close the public hearing. **Mr. Ligor moved, Ms. Leduc seconded to close the public hearing.** With no discussion, 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, 5, 7, 9, 10, 11, 12, 14, 15, 18, 19, 21, 22, 27, 28, 29, Special Conditions pursuant to the Bourne Wetlands Protection Bylaw; 2, 4, 6, 7, 9, and the following Additional Special Conditions; ASC (1) this Order requires that the applicant coordinate with Conservation agent prior to any repair or replacement of the saltmarsh walkway, ASC (2) this Order does not allow the placement or installation of the temporary dock. The dock will require a separate filing with the

Conservation Commission and the applicant must obtain a valid Chapter 91 License and/or a Section 10A Harbormaster Permit prior to any dock installation.

Mr. Palumbo entertained a motion to move the Draft Order of Conditions to the Final Order of Conditions. **Ms. Leduc moved, Mr. Ligor seconded to move the Draft Order of Conditions to the Final Order of Conditions.** With no discussion, the motion carried. 3-0-0.

Request for Certificate of Compliance:

1) Applicant: Darrell McLaughlin
File Number: SE7-0300
Representative: JC Engineering, Inc.
81 Phillips Rd., Sagamore Beach

To upgrade existing septic system and construct a deck within a 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.

Agent Comment – Mr. Haines stated a site visit was made on numerous occasions. He explained that the property had an outstanding Order of Conditions from 1984; which needs to be finalized before moving forward with filing SE7-2040. The outstanding Order involved the construction of a seaward facing deck. The site plan for that project was drafted based on a plot plan; which are never accurate. It was discovered by JC Engineering that the lot lines were much closer to the property line than what appeared on the previous filing. The deck, which was allowed a 12' extension, was constructed outside of the permit window. The applicant is proposing 1:1 mitigation to account for the fact that work was done outside of the permit window. The mitigation will be addressed in the Notice of Intent hearing. There were also some structures on town property; paving stones and a set of stairs. Those have been removed from the Coastal Dune and the Town of Bourne property. There is still an existing pathway going down the dune; however, historic photos show the path as far back as the 90s or earlier and almost every house in the vicinity also has a path. Mr. Haines stated there is another set of stairs on the subject property leading to the pathway. The Commission will have to determine how they'd like to address the stairway and pathway violations. Mr. Haines stated because the applicant has responded to all of his requests; to provide some mitigation for the work that was performed outside the permit window, and to remove all structures from the dune and town property, he is recommending the COC be issued.

After a brief discussion, it was decided no further mitigation would be required for the stairs or pathway.

Mr. Palumbo entertained a motion. **Ms. Leduc moved, Mr. Ligor seconded to grant the Certificate of Compliance.** With no discussion, the motion carried. 3-0-0.

Notice of Intent:

9) Applicant: Darrell McLaughlin
File Number: SE7-2040
Representative: JC Engineering, Inc.
81 Phillips Rd., Sagamore Beach

To upgrade existing septic system and minor grading within a 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.

(Continued from November 1, 2018)

Brad Bertolo addressed the board explaining the home is currently on the market. During the inspection, there was evidence of system failure. The permit that was issued in 1984, included the installation of a septic system. Another permit is now being requested. Mr. Bertolo briefly described the proposed project and the proposed mitigation to account for the deck that was constructed outside the permit window.

Agent Comment – Mr. Haines explained that the construction of the deck was permitted; however, it was constructed after the permit was no longer valid and the site plan for the project was drafted from a Mortgage Inspection Plan that was hand drawn and wasn't to scale. Mr. Haines said on the plan, the deck is shown twenty-five feet off the edge of the property line, but it's closer to twelve feet. He feels that the reduction in lawn is an improvement and feels this proposed mitigation is acceptable.

Board Comment – Mr. Berman stated the Commission would normally ask for more mitigation; however, this was an approved deck.

Mr. Berman opened a brief discussion regarding the proposed vegetation that will replace the grass. Ms. Leduc stated she would like the mitigation area demarcated. Mr. Bertolo agreed.

Public Comment – None.

Mr. Palumbo entertained a motion to close the public hearing. **Ms. Leduc moved, Mr. Ligor seconded to close the public hearing.** With no discussion, 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, 5, 7, 9, 10, 11, 15, 18, 19, 21, 22, 26, 27, 28, Special Conditions pursuant to the Bourne Wetlands Protection Bylaw; 1, 2, 4, 5, 6, 7, 9, and the following Additional Special Condition; ASC (1) the area shown on the lawn conversion mitigation on the site plan must be planted with suitable native vegetation and allowed to grow to maturity. The mitigation shall not be converted to turf grass, ASC (2) the mitigation area must be delineated with a permanent boundary and protected in perpetuity.

Mr. Palumbo entertained a motion to move the Draft Order of Conditions to the Final Order of Conditions. **Mr. Ligor moved, Ms. Leduc seconded to move the Draft Order of Conditions to the Final Order of Conditions.** With no discussion, the motion carried. 3-0-0.

10) Applicant: Town of Bourne Selectmen
File Number: SE7-2036
Representative: BCS Group, Inc.
810 Shore Road, Pocasset

For a dewatering site associated with the Pocasset River dredge within an AE Flood Zone, 100 feet of a Wetland Resource Area and within 200 feet of a River Front Area.

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

(Continued from November 15, 2018)

Agent Comment – Mr. Haines stated the matter was continued because the Commission wanted to know if a barrier or fence could be installed at the western end of the parking lot to prevent the area from being used as a boat ramp. He said the Town of Bourne does not permit boats to be launched from that area. The site may or may not be used as a stockpile location; but if it is, they are happy to install a barrier after the project is completed; however, they would like to keep an area open to allow for pedestrian traffic for kayakers who use that area.

Board Comment – Ms. Leduc asked if that was the only reason the matter was continued. Mr. Haines replied yes.

Public Comment – None.

Mr. Palumbo entertained a motion to close the public hearing. **Mr. Leduc moved, Ms. Leduc seconded to close the public hearing.** With no discussion, 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, 3, 7, 8, 10, 12, 14, 18, 19, 27, Special Conditions pursuant to the Bourne Wetlands Protection Bylaw; 4, 13 and the following Additional Special Conditions; ASC (1) any saltmarsh vegetation which is damaged or destroyed shall be documented during construction and restored after the construction is completed, ASC (2) contractors shall use best management practices to keep the roadways free of debris and sediment. If debris and sediment is deposited on the roadways, it shall be swept clean and deposited properly, ASC (3) if the Town of Bourne utilizes the parking lot as a dredge spoil location, the Town shall install a guardrail at the west end of the parking lot as mitigation and to prevent unpermitted launching of boats over the saltmarsh. The site will still allow for pedestrian traffic and the launching of non-motorized watercraft such as kayaks.

Mr. Palumbo entertained a motion to move the Draft Order of Conditions to the Final Order of Conditions. **Ms. Leduc moved, Mr. Ligor seconded to move the Draft Order of Conditions to the Final Order of Conditions.** With no discussion, the motion carried. 3-0-0.

Request for Certificate of Compliance:

2) Applicant: James Swent
File Number: SE7-1981
Representative: David MacLean & Associates
52 Baxendale Road, Cataumet

To replace and rebuild existing deck and stairs, as well as landscaping of vegetation for erosion control within a V Flood Zone and a Wetland Resource Area.

Agent Comment – A site visit was performed on December 3, 2018. Mr. Haines recommended issuing the Certificate of Compliance.

Mr. Palumbo entertained a motion. **Ms. Leduc moved, Mr. Ligor seconded to grant the Certificate of Compliance.** With no discussion, the motion carried. 3-0-0.

Other Business:

- ▶ Discussion & Vote – 2019 Conservation Commission hearing dates – Deferred.
- ▶ Vote to excuse absent members, if necessary – **Ms. Leduc moved, Mr. Ligor seconded to excuse the absent members.** With no discussion, the motion carried. 3-0-0.
- ▶ Acceptance of Previous Meeting Minutes – Mr. Palumbo entertained a motion to approve the minutes of the October 18, 2018 meeting. Ms. Leduc noted one revision. **Ms. Leduc moved, Mr. Ligor seconded to approve the minutes of the October 18, 2018 meeting as revised.** With no further discussion, the motion carried. 3-0-0.

Mr. Palumbo entertained a motion to approve the minutes of the November 1, 2018 meeting. **Ms. Leduc moved, Mr. Ligor seconded to approve the minutes of the November 1, 2018 meeting.** With no further discussion, the motion carried. 3-0-0.

- ▶ Report of the Conservation Agent – None.
- ▶ 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.

Ms. Leduc mentioned that she and Mr. Berman attended the Cape Coastal Conference and the state gave a presentation on the impending Land Subject to Coastal Storm Flowage Performance Standards. She stated public hearing and discussions will be held in 2019.

II. Adjournment

Ms. Leduc moved, Mr. Ligor seconded to adjourn. With no discussion, the motion carried. 3-0-0. The meeting adjourned at 9:42 PM.