

# **Conservation Commission**

## **Meeting Minutes**

Town Hall Lower Conference Room

24 Perry Ave., Buzzards Bay, MA 02532

April 19, 2018

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

Chm. Gray called to order the meeting of the Conservation Commission at 7:00 PM on April 19, 2018. Chm. Gray 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: Chm. Gray addressed the audience and explained the 5, 5, 5 rules; which allow 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, Melvin P. Holmes, Rob Palumbo (7:07) Thomas Ligor, Elise Leduc and Associate Member, Greg Berman.

**Excused Members:** Susan Weston and Paul Szwed

**Also Present:** Sam Haines, Carol Mitchell, Peter Lindberg, Jeff Goldstein, Tracey Goldstein, Mark Bowie, Paul Gately, David Sampson, Jay Munsey, Penny Munsey, Bradley Bertolo, Bob Binda, Lisa Binda, Nick Dufresne, Chris Gilbert and Mike Borselli.

Chm. Gray asked for everyone to share in a moment of silence for the passing of Sergeant Sean Gannon.

**Request for Determination of Applicability:**

1) Applicant: F. Gardner Jackson Jr.

File Number: CC18-09

Representative: Timothy Jackson

Emmons Rd Map 34, Parcel 5/6, Tobey Island – Monument Beach

To replace three float pilings within a V & AE Flood Zone.

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

Peter Lindberg spoke on behalf of the Jackson family as Mr. Jackson was ill and unable to attend. Mr. Jackson is asking to replace the three pilings that were damaged by ice flow over the winter. They will be in the same footprint per the 1981 plan that's on file with the Commission.

Mr. Haines asked if the contractor has been contacted to see how he will access the property. Mr. Lindberg stated he will access the property by barge. Mr. Haines asked if the materials used will be similar to what's existing. Mr. Lindberg stated yes.

Agent Comment – Mr. Haines stated this is a standard replacement of pilings damaged by ice. The pier is legally permitted, has an active Chapter 91 License and is in good standing with the Bourne Department of Natural Resources.

Board Comment – Mr. Ligor asked if the piles will be jetted in or pounded in. Mr. Lindberg believes they will be vibrated in.

Public Comment – None.

Chm. Gray entertained a motion. **Mr. Ligor moved, Ms. Leduc seconded a Negative Two Determination.** With no discussion the motion carried. 5-0-0. Chm. Gray explained the determination to the representative.

2) Applicant: Michael Cryan & Carole Julian

File Number: CC18-09

Representative: J.C. Engineering, Inc.

66 Old Dam Road, Monument Beach

To remove existing deck, exterior stairs, outdoor shower enclosure and chimney to be replaced by a new deck, entry halls with stairs and new outdoor shower enclosure to an existing single-family dwelling within an AE Flood Zone.

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

**(Reviewed Under State Act Only)**

*Chm. Gray recused himself from discussion and vote. Ms. Leduc chaired the hearing.*

Brad Bertolo addressed the board and discussed the proposed project. He supplied a photograph of the existing deck and discussed the location of the Coastal Bank. He stated there are no grade changes being proposed.

Mr. Haines asked if any septic related work will be conducted. Mr. Bertolo stated no.

Agent Comment – Mr. Haines made note that the project is being reviewed under the state act only. He did not identify any issues with the work and there are no performance standards under M.G.L. c. 131, § 40.

Mr. Bertolo referred to the floor plan to further explain the project.

Board Comment – None.

Public Comment – None.

Ms. Leduc entertained a motion. **Mr. Holmes moved, Mr. Ligor seconded a Negative Two Determination.** With no discussion the motion carried. 4-0-0.

*Chm. Gray returned to chair the hearing.*

3) Applicant: William M. Harris  
File Number: CC18-11  
Representative: David Sampson  
7 Pine Ridge Drive, Buzzards Bay

To demolish existing in-ground swimming pool, fill, finish seed to existing grade within 100 feet of a Wetland Resource Area.

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

Dave Sampson discussed the proposed project. He provided background information on the existing pool and described the demolition process. He explained that the rubble will be buried in place.

Board Comment – Mr. Ligor opened a discussion regarding the existing condition of the pool.

Ms. Leduc asked how the area will be accessed. Mr. Sampson explained how the site will be accessed. He stated the abutting property owner has given permission to access the site through his property if need be.

Ms. Leduc discussed the type of machinery that will be used.

Mr. Holmes asked the pool size. Mr. Sampson stated it's 20x30.

Mr. Ligor asked if there's any water in the pool currently. Mr. Sampson stated there's rain water in the pool. Mr. Ligor asked if the rain water will be pumped out prior to the demolition. Mr. Sampson stated it will.

Agent Comment – Mr. Haines stated this is an unusual lot. The owner of 7 Pine Ridge has an easement for the pool over the adjacent property. The pool was constructed under an Order of Conditions, SE7-1007. When Mr. Haines looked at the file, he did not find that a COC had been issued. A letter of compliance will have to be issued before the pool is demolished. Two concerns the agent identified were; whether burying construction materials is legal and what the plan is for the water in the pool. Mr. Haines stated he could not find any state regulations about burying concrete on your own site. He found a lot of regulation on how to landfill and how to recycle it once it's take off site. In terms of clean fill, under M.G.L. c. 131, § 40, the only definition for clean fill he could find pertains to ecological restoration; which doesn't apply to this project. Mr. Haines spoke with the Board of Health and the building inspector, neither were aware of any regulations about burying concrete in the yard. The representative stated the pool is filled with rain water. The original plan was to discharge it into the bay. He spoke with the Board of Health on that issue as well. They stated as long as it's clean rain water, there is no regulation on where to pump it out. The only condition the agent recommended to the Commission is that erosion controls be placed down grade of the work area.

A brief discussion transpired regarding the amount of rain water in the pool and the condition of the water in it.

Mr. Ligor asked what the walls of the pool are made out of. Mr. Sampson stated they are made of poured concrete.

Mr. Berman asked if discharging the pool water in a water body requires approval from the Army Corps of Engineers. Mr. Haines stated that's within the Board of Health's purview. Chm. Gray stated if the pool was being pumped at the end of the summer, there may be a chlorine issue but he doesn't feel there's a chlorine issue at this time.

Public Comment – None.

Chm. Gray entertained a motion. **Mr. Ligor moved, Ms. Leduc seconded a Negative Two Determination with the condition that erosion control measures will be utilized.** With no discussion the motion carried. 5-0-0.

Mr. Haines stated he will look into discharge regulations for future filings in case of volume restrictions.

### **Notice of Intent**

*Chm. Gray recused himself from discussion and vote. Mr. Palumbo chaired the hearing.*

- 1) Applicant: Thomas Donovan, Trustee  
File Number: SE7-2015  
Representative: Bracken Engineering, Inc.  
7 Quaker Lane, Bourne

To construct a single-family dwelling including Title V septic system, landscaping, grading, utilities and appurtenances within 100 feet of a Wetland Resource Area.

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

Brendan Mullaney addressed the board. He provided a brief history on the lot, provided its location, discussed the Resource Areas located on the property and described the proposed project.

Board Comment – Ms. Leduc asked if the driveway will be impervious. Mr. Mullaney stated it is proposed to be paved.

Agent Comment – Mr. Haines stated the Isolated Vegetated Wetland did not contain Vernal pool habitat; therefore, the Commission's jurisdiction remains one-hundred feet from the buffer. Given the lot size and the site topography, he thinks the Commission could apply the standard fifty-foot vegetated buffer, while still allowing a yard for the applicant. Mr. Haines did not identify any issues with the project as proposed.

Mr. Mullaney stated this was an Open Space subdivision, there is on the subdivision plans, what's called a natural buffer limit that stretches across the lots which is close to a fifty-foot buffer. He feels this should satisfy the Commission's fifty-foot buffer condition.

Board Comment – None.

Public Comment – Abutter, Bob Binda, raised concern about runoff onto his property and asked that the lot line be surveyed from the street to the property's end. Mr. Mullaney doesn't see the purpose for surveying. Mr. Palumbo stated that's not something the Commission can condition because it's not an environmental concern. Mr. Haines stated that's an additional expense that they don't typically apply to any other homeowner. He said if Bracken Engineering wants to work with Mr. Binda on any surveying they'd like to conduct above the Commission's standards that's up to them. Mr. Mullaney stated the site has already been surveyed and unless there's an issue as to whether the zoning setback has been met, he doesn't see the purpose of staking the property line. Mr. Palumbo asked Mr. Binda to take his concerns up with the applicant. Mr. Binda expressed his opposition of the project.

Mr. Palumbo entertained a motion to close the public hearing. **Mr. Holmes moved, Mr. Ligor seconded to close the public hearing.** With no discussion the motion carried. 4-0-0.

Mr. Haines - Draft Order of Conditions: All General Conditions, Special Conditions pursuant to M.G.L. Chapter 131, Section 40 numbers; 1-3, 7, 9-12, 14-16, 18, 19, 21, 27-29, Special Conditions pursuant to the Bourne Wetlands Protection Bylaw Article 3.7 numbers; 2-7. There were no additional special conditions; however, Special Condition number 3 shall remain 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. 4-0-0.

*Chm. Gray returned to chair the hearing and changed the order of the agenda*

**Request for Certificate of Compliance:**

- 2) Applicant: Catherine Leach Tr., Dan Chauvin  
File Number: SE7-1521  
Representative: Same  
5 Fabyan Way, Buzzards Bay

New single-family dwelling, Title V SAS, utilities and other appurtenances within 100 feet of a Wetland Resource Area.

**(Continued from April 5, 2018)**

Chm. Gray explained Mr. Chauvin appeared at the April 5<sup>th</sup> hearing and it was discussed that the original Order of Conditions had an area between the top of the Bank extending out fifty feet that needed to be planted.

Agent Comment – Mr. Haines stated Mr. Chauvin planted 110 plants between the fifty-foot buffer and the Coastal Bank; therefore, Mr. Haines recommended issuance of the certificate. Conditions 20, 24, Bylaw conditions 4 & 5, and Special Condition ASC 1 will continue in perpetuity as was in the original Order.

Board Comment – None.

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

Mr. Chauvin acknowledged Mr. Haines for his hard work.

**Notice of Intent (cont.)**

2) Applicant: Mark Bowie

File Number: SE7-2014

Representative: Falmouth Engineering, Inc.

41 Benedict Rd. Gray Gables

To reinstall a seasonal ramp and float in the previously installed location within a V Flood Zone and within 100 feet of a Wetland Resource Area.

Materials Reviewed – Site Photographs, Site Plan of Record, historical photos, two letters of attestation, two Chapter 91 Licenses and DEP Wetlands Change Mapping.

Mike Borselli addressed the members. He introduced the property owner and described the location of the property. He made note of the Resource Areas and discussed the existing licensed stone groin on the northern side of the property. He attached two licenses to the application which were granted in the late 40s. He explained that the stone groin has a concrete pedestal which was the ending point historically for the ramp and float that had been on the property seasonally on and off through the years. The previous owner of the property utilized the ramp and float up until the past several years prior to

the current owner's acquirement of the property. Mr. Borselli provided two letters of attestation; one from the previous homeowner and one from a former neighbor. He stated Mr. Bowie would like to reintroduce the ramp and float to the fixed point on the groin and enjoy it for private recreational uses.

Board Comment – None.

Agent Comment – Mr. Haines stated the groin and concrete cap are licensed under Chapter 91. There's no mention in the Chapter 91 licenses of a ramp or float. The Bourne Department of Natural Resources could not locate any mooring permits for this property. Mr. Haines also looked at Google Earth and State Ortho Imagery and he could not find any evidence of a ramp or float since 1990. There is historical evidence predating the Wetlands Protection Act and it appears as though historically there's been a ramp and float attached to the pier. The applicant has supplied testimony from the neighbors and historical photos of the ramp and float at this location. Based on the photos, Mr. Haines questioned the sixteen-foot length, stating it appears to be shorter in photos. Mr. Borselli produced additional photos for review.

Chm. Gray asked why an original license was issued under 2920 and a subsequent license was issued under 3288. Mr. Borselli said when he looked at both licenses the only distinction was the original license was to construct and maintain and the reissued license was to maintain the existing stone groin. He is unsure why a subsequent license was issued.

Mr. Haines asked the property owner if he knows the date the ramp and float were last installed. Mr. Bowie stated he did not know. Mr. Borselli said it's been a few seasons. Mr. Bowie stated he was told the float and ramp were never licensed with the town. The previous owner's father constructed it and it was never permitted. Mr. Bowie explained that the differentiation between the two licenses is the second license included the structure at the end.

Board Comment – Ms. Leduc asked if the original float and ramp were never permitted, is it okay to allow the replacement of something that was never permitted at all. Mr. Haines stated they'd have to prove the structure was in place prior to 1978. If the structure predated the Wetlands Protection Act, there is past precedent for the allowance of these historical structures to be rebuilt with the same dimensions without expansion.

A brief discussion transpired regarding the aerial photos that were submitted.

Chm. Gray opened a brief discussion regarding the two licenses. He feels there's substantial evidence that the structure has existed for well over sixty years. A discussion ensued.

Public Comment – None.

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

Mr. Haines - Draft Order of Conditions: All General Conditions, Special Conditions pursuant to M.G.L. Chapter 131, Section 40 numbers; 1-3, 7, 12, 15, 22, Special Conditions pursuant to the Bourne Wetlands Protection Bylaw Article 3.7 numbers; 10, 12, 14-18, 20-25.

Ms. Leduc asked if one of the conditions prohibits the float from being stored on the beach in the off-season. Mr. Haines stated number 17 prohibits that and read the condition aloud.

Chm. Gray asked Mr. Bowie if he has an off-season storage area. Mr. Bowie stated he does.

Chm. Gray entertained a motion to move the Draft Order of Conditions to the Final Order of Conditions. **Mr. Palumbo moved, Mr. Holmes seconded to move the Draft Order of Conditions to the Final Order of Conditions.** With no discussion, the motion carried. 5-0-0.

3) Applicant: Jeffrey Goldstein

File Number: SE7-2013

Representative: Falmouth Engineering, Inc.

8 Agawam Point Rd. Gray Gables

To install a helical pile supported elevated walkway within a V & AE Flood Zone.

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

Michael Borselli addressed the members. He introduced the property owners, Mr. & Mrs. Goldstein. He described the Resource Areas located on the property and discussed the proposed project. In addition to the elevated walkway, they are proposing to install a removable, aluminum ladder at the end of the structure to gain access to the water. The walkway will be elevated to meet the standards for public access in accordance with requirements of Chapter 91. It will also be elevated to provide the minimum separation from the bottom of the joist to the salt marsh vegetation. The upland end will have a small ramp that will allow access just landward of the top of the Coastal Bank in a grass area.

Board Comment – Mr. Ligor referred to a site photograph and asked why a tree in the photograph was cut. Mr. Haines explained that was a historical violation. There was another previous violation where a wooden walkway was installed in that area; which the Commission made them remove.

Ms. Leduc asked when the cutting violation occurred. Mr. Haines stated it occurred in 2016. She commented that it doesn't appear as though anything has grown back. Mr. Haines stated this has been an ongoing issue at the property.

Agent Comment – Mr. Haines stated this is a standard saltmarsh walkway, similar to those that have been approved in the past. It doesn't extend beyond the edge of the saltmarsh; therefore, it's not subject to the Commission's dock and pier regulation. The clearance requirements meet the DEP and Army Corps standards for light penetration. One issue Mr. Haines noted during his site inspection in addition to the vegetation issue, is with the Coastal Bank delineation. It appears that there's a second Coastal Bank in front of the house. He stated unfortunately, a plan with the same Coastal Bank delineation was accepted in 2016.

Mr. Berman asked if the Coastal Bank delineation should be corrected on this plan. Mr. Haines stated the approved plan from 2016 is valid for three years. Mr. Berman asked if by approving this project, it extends the validity of the plan for another three years. Chm Gray explained that a notation would have to be made that the Coastal Bank delineation would have to be revisited, start it from the date of the plan that was previously approved and state in this Order that three years from that date, any new plan for this site will have to evaluate the potential secondary Bank. After a brief discussion, it was decided that the plan will be stamped with the standard language; any action taken at this time does not indicate acceptance of Wetland Resource Areas by the Conservation Commission. Mr. Haines suggested conditioning the Order that a new Coastal Bank delineation will be required three years from the date of the 2016 approved plan. Mr. Borselli agreed. A discussion ensued.

Mr. Ligor again questioned why the tree in the photo appears to have been recently cut. Mr. Goldstein reviewed the photos stating he believes the cut happened prior to him taking ownership. Mr. Haines disagreed and discussed a violation from 2016 for removal of Cedar trees and some landscaping. The Commission required the Coastal Bank be vegetated and allowed to grow to a height of three feet or greater; which in certain areas, is not being met. It appears as though the Bank is still being mowed at a height of lower than three feet. Mrs. Goldstein argued they have not mowed, stating it appears that way because it is winter.

Public Comment – None.

After a brief discussion, it was decided that a condition would be added to the Order requiring the Bank to be vegetated at a height of three feet or greater.

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

A brief discussion transpired regarding adding Additional Special Conditions to the Order.

Mr. Haines - Draft Order of Conditions: All General Conditions, Special Conditions pursuant to M.G.L. Chapter 131, Section 40 numbers; 1-3, 7, 9, 10, 12, 15, 18, 19, 20, 22, 27, 28, 29, Special Conditions pursuant to the Bourne Wetlands Protection Bylaw Article 3.7 numbers; 6, 7, 10, 12, 14, 15, 18, 20, 21, 24, 25, with the following recommended Addition Special Conditions; ASC (1) the permitted saltmarsh walkway is not to be used as a boat dock, slip or mooring, no storage or mooring of watercraft is allowed on the saltmarsh and no floats are to be attached to the saltmarsh walkway, ASC (2) no refueling in the Resource Area and secondary containment is required within the 100 foot buffer, spill containment materials must be kept on site at all times, ASC (3) any areas of disturbed saltmarsh vegetation or destabilization of the Coastal Bank as a result of this project must be restored immediately after work is completed, ASC (4) mats are required under the Bobcat or Skid-steer during installation to distribute ground pressure and prevent rutting in the saltmarsh, ASC (5) the stairs or ladder at the seaward end of the structure must be removable. The ladder must be removed from the structure between November 1<sup>st</sup> and April 1<sup>st</sup> and stored in an appropriate upland location, ASC (6) any plan dated after the date of the prior Order in 2016 will require a new Coastal Bank delineation. The plan will be stamped with the standard language; any action taken at this time does not indicate acceptance of Wetland Resource Areas by the Conservation Commission, ASC (7) vegetation on the Coastal Bank must be allowed to grow to a height of three feet or greater. No cutting of shrubby vegetation below that height is allowed.

Chm. Gray entertained a motion to move the Draft Order of Conditions to the Final Order of Conditions. **Mr. Ligor moved, Mr. Holmes seconded to move the Draft Order of Conditions to the Final Order of Conditions.** With no discussion, the motion carried. 5-0-0.

*Mr. Palumbo and Ms. Leduc recused themselves from discussion and vote.*

- 4) Wings Neck Trust  
File # SE7-2000  
Representative: Falmouth Engineering, Inc.  
99 South Road, (Parcel 75), Pocasset

To repair an existing steel bulkhead and to shift an existing swim float seaward within a V Zone and within a Wetland Resource Area.

Materials Reviewed – Site Photographs, Revised Site Plan of Record, Letter from DMF, Letter from the Natural Heritage & Endangered Species Program and DEP Wetlands Change Mapping.

**(Continued from March 1, 2018)**

Michael Borselli was joined by David Curtain and Franklin Beverage of Wings Neck Trust. Mr. Borselli addressed the board explaining this is the third continuance due to quorum issues and because a response was needed from both DMF and the Natural Heritage & Endangered Species Program.

Mr. Borselli discussed the changes that were made to the plan as recommended by the response received from DMF; which include, a change to flexible cable vs. chains to anchor the float and a barrier of visual floats along the perimeter of the Eelgrass beds was added. Mr. Borselli stated based on his review and discussions with contractors, access will be from the parking lot; so, he doesn't anticipate any need for barge equipment. Work will be performed from the land, working with the tide.

Mr. Borselli discussed the need to further investigate the delineation of saltmarsh in a specific location near the parking area. He's hoping the Commission will approve the project without the need to obtain clarification on the boundary of the saltmarsh in that location if it is appropriately recognized in the Order of Conditions. Chm. Gray asked the representative if in that questionable area, he has any information that would point to an elevation for the highest spring tide or any elevation for Mean High Water that could be extrapolated into Spring High Tide. Mr. Borselli stated he does and it was added to the plan based on the elevations he had.

Chm. Gray opened a lengthy discussion regarding the parking lot configuration. At the end of the discussion it was decided that the agent will meet Mr. Beverage at the site to discuss rearranging an existing row of rocks that were installed in the mid-1970s in order to prevent kids from damaging the area with their bicycles. Rearranging the rocks will prevent vehicles from driving on the area of concern allowing Spartina to regrow

Agent Comment – Mr. Haines stated under the Bylaw, the Commission will have to determine whether they feel that the expansion of the ramp is either an environmental or a public benefit. They'll also have to determine whether the storage of the floats within the parking area has any adverse impacts on parking lot, which is a barrier beach. He stated the additional special conditions that he would recommend are; ASC (1) either a floating boom or a series of buoys must be placed around the Eelgrass bed as shown on the revised plan of record. No mooring of equipment is allowed within the delineated Eelgrass area, ASC (2) action taken at this time does not indicate acceptance of any Wetland Resource Areas boundaries by the Bourne Conservation Commission.

Chm. Gray asked the representative if he's answered the concerns of DMF. Mr. Borselli stated he has and a no take letter was received from the Natural Heritage & Endangered Species Program.

Board Comment – Mr. Berman asked how the stored floats will be secured. Mr. Haines stated they will be tied down to rocks.

Public Comment – None.

Chm. Gray entertained a motion to close the public hearing. **Mr. Holmes moved, Mr. Ligor seconded to close the public hearing.** With no discussion the motion carried. 4-0-0.

Mr. Haines - Draft Order of Conditions: All General Conditions, Special Conditions pursuant to M.G.L. Chapter 131, Section 40 numbers; 1-3, 7, 9, 10, 12, 15, 18, 19, 27, 28, 29, Special Conditions pursuant to the Bourne Wetlands Protection Bylaw Article 3.7 numbers; 4-7, 10, 12, 14, 15, 16, 18, 20, 21, 22, 25, with the following recommended Addition Special Conditions; ASC (1) either a floating boom or a series of buoys must be placed around the Eelgrass bed as shown on the revised plan of record. No mooring of equipment is allowed within the delineated Eelgrass area, ASC (2) action taken at this time does not indicate acceptance of any Wetland Resource Areas boundaries by the Bourne Conservation Commission.

Chm. Gray entertained a motion to move the Draft Order of Conditions to the Final Order of Conditions. **Mr. Ligor moved, Mr. Holmes seconded to move the Draft Order of Conditions to the Final Order of Conditions.** With no discussion, the motion carried. 4-0-0.

*Mr. Palumbo and Ms. Leduc returned.*

5) Applicant: Joseph Botti Company  
File Number: SE7-2011  
Representative: Farland Corp. Engineering  
819 Head of the Bay Road (Lot 1), Buzzards Bay

To construct an attached garage and a subsurface sewage disposable system within 100 feet of a Wetland Resource Area.

Materials Reviewed – Site Photographs, Site Plan of Record, Alternatives Analysis, Redevelopment Guidelines of Rivers Protection Act and DEP Wetlands Change Mapping.

**(Continued from April 5, 2018)**

Nick Dufresne along with Chris Gilbert addressed the members. Mr. Dufresne referred to the plan to pinpoint the locations of flood zones that are located on the property. He discussed the top of the Coastal Bank that's been delineated and shown on the plan, the existing dwelling and a large paved area he's proposing to remove.

Board Comment – Ms. Leduc asked for the location of the river. Mr. Dufresne referred to the plan to pinpoint its location. Mr. Dufresne briefly discussed a study of the stream that was performed by Atlantic Design back in 2007.

Mr. Ligor asked the representative what a subsurface sewage disposal system is. Mr. Dufresne stated that is the proposed septic field. Mr. Ligor asked if the system will service the proposed garage. Mr. Dufresne stated it will service the dwelling.

Ms. Leduc asked if the proposed structure will be in the same footprint as the exiting. Mr. Dufresne stated the foundation is remaining for the dwelling but the proposed garage is new.

Chm. Gray asked if an alternatives analysis was performed. Mr. Dufresne indicated yes. Chm. Gray questioned whether the representative was invoking the redevelopment clause. Mr. Dufresne stated yes and a brief discussion transpired regarding the removal of an existing concrete area and proposed mitigation to be installed in its place.

Agent Comment – Mr. Haines stated the Coastal Bank delineation appeared accurate in the field. The major issue is the plan came in as an intermittent stream. It is his contention based on USGS and field observations that the stream is perennial; meaning the project will fall under the Rivers Protection Act; which he said is extremely confusing. Mr. Haines included the redevelopment portion of those regulations to aid the Commission

members with determining in redevelopment whether what's being proposed is an improvement over existing conditions. The improvement with this project would be the removal of the pavement area and the upgrade of the septic system.

Mr. Haines stated he did not know the exact number in terms of impervious to pervious surface that's being proposed. Mr. Dufresne stated there's a net gain of 4,300 sq. ft. of pervious that will be gained post-construction. Currently, the total impervious area is 6,689 sq. ft and the proposed, between the driveway and the garage, is 2,359 sq. ft. Chm. Gray suggested making the proposed driveway pervious. The representative agreed. Also, as additional mitigation, Chm. Gray suggested cleaning up the debris that's been dumped on the property.

Mr. Haines stated given the complexities of the regulations, he would like the representative to submit a Landscape Plan and a Planting Plan. A discussion ensued.

After a brief discussion, the representative requested to continue the matter to May 3, 2018.

- 6) Applicant: Joseph Botti Company  
File Number: SE7-2012  
Representative: Farland Corp. Engineering  
819 Head of the Bay Road (Lot 2), Buzzards Bay

To construct a single-family dwelling and attached garage; install a new Title 5 septic system; and all associated grading, landscaping, utilities, and appurtenances within 100 feet of a Wetland Resource Area.

**(Continued from April 5, 2018)**

At the request of the applicant's representative, the matter was continued to May 3, 2018.

- 7) Tahanto Associates, Inc.  
File # SE7-1999  
Representative: Design Consultants, Inc.  
0 Tahanto Road, Pocasset

To demolish an existing 30' wooden pedestrian bridge and replace it with a 35' aluminum pedestrian bridge within a V Flood Zone and within a Wetland Resource Area.

Materials Reviewed – Site Photographs, Revised Site Plan of Record, copy of Chapter 91 License, updated Construction Methodology, stamped Structural Civil Engineering Plans and DEP Wetlands Change Mapping.

**(At the request of the applicant, the matter is continued to May 17, 2018)**

- 8) Steve Cook  
File # SE7-2003  
Representative: Civil Environmental Engineering  
165 Jefferson Road, Gray Gables

To raze the existing house; construct a new single-family residence; driveway; swimming pool and perform filling and grading and all usual appurtenances within a V Flood Zone and within 100 feet of a Wetland Resource Area.

Materials Reviewed – Site Photographs, Site Plan of Record, Architectural Plans, Planting Plan, letter from Attorney Joyce, Letter of opposition from Jeff Lau, Before and After Renderings, Section 86-1 of the Wetlands Protection Act, Horsley Witten Group Letter and DEP Wetlands Change Mapping.

**(At the request of the applicant, the matter is continued to May 17, 2018)**

**Request for Certificate of Compliance:**

- 1) Applicant: Keith Bradley Trustee  
File Number: SE7-1992  
Representative: Outback Engineering, Inc.  
3 Vicki Circle, Bourne

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

Agent Comment – A site visit was performed on April 18, 2018. Mr. Haines recommended issuing a Certificate of Compliance.

Chm. Gray entertained a motion. **Mr. Ligor moved, Mr. Holmes seconded to issue the Certificate of Compliance.** With no discussion, the motion carried. 5-0-0.

**Other Business:**

- Vote excused absent members, if necessary – **Mr. Holmes moved, Ms. Leduc seconded to excuse Ms. Weston and Mr. Szwed.** With no discussion, the motion carried. 5-0-0.

- Acceptance of Previous Meeting Minutes – Chm. Gray entertained a motion to approve the draft minutes of the February 1, 2018 meeting. **Mr. Ligor moved, Ms. Leduc seconded to accept the minutes of the February 1, 2018 meeting.** With no discussion, the motion carried. 5-0-0.

- Report of the Conservation Agent – Mr. Haines acknowledged Tracy Sullivan for all of her hard work she performs. He stated she has been extremely helpful to him. Mr. Ligor commented that she is very nice and polite.

Chm. Gray asked for an update on the Crab Rock Way project and the cleanup of properties on Phillips Road after the winter storms. Mr. Haines stated he walked Phillips Road with Dan Gilmore of DEP and identified a couple of issues. He will provide an update on May 2<sup>nd</sup>. He stated there are still small Emergency Declaration projects being put forward that he's coordinating with Dan Gilmore on. He did not have any additional information on Crab Rock Way.

Chm. Gray asked for an update on the enforcement review at the Cardoza property on River Road. Mr. Haines stated he was contacted by a representative of Mass DEP regarding leaking storage tanks and wetland fill on the site. He and the DEP representative will coordinate a joint review of the site. Mr. Haines stated there is a history of violations at this property. Chm. Gray asked the agent if he recalled the last time the Commission dealt with an enforcement action at the property. Mr. Haines thinks it was in the early 90s. He is hoping to have more information at the next hearing once the site review is conducted.

- 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**

**Ms. Palumbo moved, Ms. Leduc seconded to adjourn.** With no discussion, the motion carried. 5-0-0. The meeting adjourned at 9:17 PM.

Minutes submitted by: Carol Mitchell