

Conservation Commission

Meeting Minutes

Town Hall Lower Conference Room

24 Perry Ave., Buzzards Bay, MA 02532

May 18, 2017

I. Call to order

Chm. Gray called to order the meeting of the Conservation Commission at 7:00 PM on May 18, 2017. Chm. Gray explained all of the reviews, unless otherwise stated, are joint reviews. Applications will be processed pursuant to the Massachusetts Wetlands Protection Act, M.G.L. c. 131, s. 40 and pursuant to Article 3.7 of the Town of Bourne Wetlands Protection Bylaw.

Note: Chm. Gray addressed the audience and explained the 5, 5, 5 rule; which allows the applicant / representative five minutes to make a presentation to the Commission members, Commission members will take five minutes to seek clarification if needed, the conservation agent will also give a report and five minutes of public input is allowed. He asked for all to silence their cell phones.

Note: The meeting was being recorded anyone in the audience who was recording or videotaping was asked to acknowledge such to the Commission. The proceeding listing of matters are those reasonably anticipated by the Chair which may be discussed at the meeting. Not all items listed may be discussed and other items not listed may be discussed to the limited extent permitted by the Open Meeting Law. All items within the meeting agenda are subject to deliberation and vote(s) by the Conservation Commission.

Members Present: Robert Gray, Thomas Ligor, Melvin P. Holmes, Paul Szwed, Elise Leduc and Susan Weston (7:40).

Excused Members: Robert Palumbo.

Also Present: Sam Haines, Carol Mitchell, Paul Gately, Barbara Frappier, Dana Vesty, Betty Steudel, Steven Strojny and Mike Pimental.

Request for Determination of Applicability:

1) Donna King

File # CC17-17

Representative: McKinnon and Keese Engineering
27 Gardeniere Ave. Buzzards Bay

To replace a Septic System within an AE Flood Zone.

(Hearing under State act only)

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

Sandy Keese addressed the board and discussed the proposed project. She provided a brief history of the property and discussed the type of septic system being proposed. Ms. Keese stated the system has been approved by the Board of Health as an emergency repair.

Board Comment – Mr. Ligor questioned the proposed system’s capacity. Ms. Keese stated the system will hold 2,000 gallons in total. One portion will have a 1,500 gallon tank and another portion will hold 500 gallons. She added, this is commonly used when there are state’s restraints; which is the case with this project.

Agent Comment – Mr. Haines explained he issued an emergency certification for this work based on the Board of Health’s request and on May 4, 2017, the Commission ratified that emergency certification. The Commission has received all documentation, including a revised plan, which he’s satisfied with; therefore, Mr. Haines recommended a Negative Two Determination.

Board Comment – None.

Public Comment – None.

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

2) Colonial Gas Company

File # CC17-18

Representative: Tighe & Bond
28 Harrison Ave, Buzzards Bay

To install a residential gas line within an AE Flood Zone.

(Hearing under State act only)

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

Dana Vesty addressed the board and discussed the proposed project. She stated the project site falls within land subject to coastal storm flowage and briefly discussed the scope of work.

Board Comment – None.

Agent Comment – Mr. Haines stated this is a straightforward gas line installation and has no issues with the project.

Board Comment – None.

Public Comment – None.

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

3) Gregory J. Bartlett

File # CC17-19

Representative: Same

15 Summer Street, Buzzards Bay

To construct an addition and farmer's porch, raze an existing shed and replace with a new shed. Also to remove and replace diseased trees with new ones within the AE Flood Zone.

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

Mr. Bartlett was not able to be present and asked the agent to represent him.

Mr. Haines stated although the delineation is not shown on the plan, the rear property line is at the approximate edge of the Resource Area. The existing shed is currently within a few feet of the boundary. The project is fairly straightforward. The applicant would like to install a farmer's porch along the front of the property, construct an addition on the side where a metal container is currently located. Mr. Haines stated at the rear of the property there's an existing shed which is approximately 3 feet from the edge of the Resource Area. He could not find any permitting for this structure; however, it is sitting on cinder blocks so there is no ground disturbance. The property owner identified three trees that he'd like to remove. Mr. Haines stated during his

assessment, those trees do appear to be dead or diseased. The applicant plans on mitigating for the trees being removed. Mr. Haines spoke to the applicant about the position of the shed, which is not on the plan. The applicant is going to move the shed farther from the Resource Area in order to meet zoning codes.

Board Comment – Chm. Gray asked the agent if he has any issues with the project.

Agent Comment – Mr. Haines stated if the Commission issues a Negative Determination, he recommends a letter attachment with the following conditions; 1) as stated in the narrative, the location of the new shed must comply with zoning setbacks in accordance with the Town of Bourne’s Zoning Bylaw. The shed can be placed no closer to the Wetland Resource Area than its current footprint. 2) debris behind the shed, in the Wetland Resource Area; i.e., plastic chairs, grill parts etc. must be removed and properly disposed of. 3) prior to any ground disturbance on the side or rear of the property, or should the proposed new shed require footings, sedimentation controls must be installed at the limit of work to prevent sedimentation into the wetlands. 4) the mitigation plantings as discussed in the narrative should consist of native species.

Mr. Haines stated he discussed the conditions with the applicant and he’s willing to comply with all of them.

Board Comment – Mr. Ligor opened a brief discussion with regard to the metal container which is currently in the location of the proposed addition. He questioned whether or not it should be considered a shed. A discussion ensued.

Ms. Leduc asked if the applicant acknowledged that the debris in the Wetland Resource Area is his or is he willing to dispose of it regardless. Mr. Haines stated it is debris that has just accumulated and isn’t anything he would issue a violation for. He stated the applicant acknowledged it is there and he’s willing to dispose of it. Mr. Haines stated he will perform a site visit to ensure the sedimentation controls are installed and that the debris has been removed.

Ms. Leduc asked if the replacement trees will be installed in the same general location as the ones that are being removed. Mr. Haines was unsure, but will speak to the applicant to pinpoint the location. Ms. Leduc stated it makes sense to place them in the back yard as opposed to the front yard. Mr. Haines stated a condition may be added to the list of conditions. 5) mitigation plantings must be in the same general location as those removed. The Commission agreed to add the fifth condition.

Mr. Haines asked if the Commission would like him to speak to the Building Department with regard to the metal structure. Chm. Gray doesn’t think they will consider it a structure. Mr. Haines agreed and stated it is no closer to the Resource Area

than the addition will be and it will have to be removed in order to construct the addition. Mr. Haines offered to speak with the applicant to find out his intentions for the container.

Public Comment – None.

Chm. Gray entertained a motion. **Mr. Holmes moved, Mr. Ligor seconded a Conditional Negative Two Determination with a letter attachment with the five conditions stated above by the agent.** With no discussion, the motion carried. 5-0-0.

Notice of Intent:

1) Fritz Steudel

File Number: SE7-1978

Representative: JC Engineering

124 Wings Neck Rd., Pocasset

To construct an elevated walkway and perform vista pruning 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.

Chm. Gray recused himself from discussion and vote. He asked Mr. Ligor to chair the hearing.

Mike Pimental addressed the board and discussed the proposed project; to build a four foot high, four foot wide, approximately 60 foot long elevated walkway. He stated the proposed project is located within a Velocity Zone, a salt marsh and a Coastal Bank. It will start at the back edge of the existing deck on the house leading down the Coastal Bank, over existing railroad ties steps with crushed stone, down to the salt marsh. The elevated walk way will continue to the other side of the salt marsh where the upland is located following a path of existing wooden planks. Mr. Pimental also discussed the proposed vista pruning they'd like to perform. He introduced the arborist, Steve Strojny.

Board Comment – Mr. Holmes asked for additional information with regard to the diseased trees as part of the proposed vista pruning. Mr. Haines stated he's walked the site twice and he has concerns about the vista pruning. There are some dead trees that would be a hazard that could likely be taken down and there are some dead branches at the base of some of the cedars that could be cleared to prevent a tripping hazard; however, the property owner will not be able to achieve sweeping vista views that some

applicants may want. This will allow for minimal pruning of some of the dead branches and some of the diseased or damaged limbs. Mr. Haines does not support allowing the removal of any trees.

Board Comment – Ms. Leduc asked for clarification with the agent’s assessment that some of the trees may be a hazard. Mr. Haines stated there are two large snags that are rotted out along the walking path which he generally would allow to be removed. There are also some blueberry bushes along the way that could be pruned lightly. A brief discussion ensued.

Mr. Haines stated the vista pruning would be subject to a pre-site inspection with himself and the arborist to identify what could be removed, anything further removed would be a violation and subject to enforcement.

Ms. Leduc asked the representative if he’s in agreement with the agent. Mr. Pimental stated he is. Mr. Haines reiterated this is light vista pruning not vista clearing.

Ms. Leduc opened a brief discussion with regard to the removal of the existing railroad ties steps.

Mr. Ligor asked if the elevated walkway will follow the existing path all the way down and how elevated will it be. Mr. Pimental stated it will follow the existing path, it will be approximately four feet in height, all work will be done by hand and any stockpiled material will be located on the existing deck.

Mr. Ligor asked if any adhesive product such as cement will be used to hold the posts in the ground. Mr. Pimental stated no.

Mr. Ligor asked if any stain will be applied to the walkway. Mr. Pimental stated he isn’t aware of any. Mr. Strojny stated this work is being performed as part of the sale of the property, explaining that the new owners like the natural state of the property. Their intention is to do minimal pruning and maintain it in its natural state to a large degree.

Mr. Ligor asked if any of the Phragmites will be removed. Mr. Pimental stated they are not planning on removing any of the existing vegetation.

Agent Comment – A site visit was performed on May 17, 2017. Mr. Haines stated he has no issues with the elevated walkway over the wetland. He’s spoken to the representative several times over the design and construction of it and they’ve agreed on the design. The walkway is similar to what was approved under an expired Order of Conditions SE7-1239, which was never constructed. He noted the area is dominated by Phragmites. Should the Commission decide to issue an Order of Conditions the agent recommends the following additional Special Conditions; 1) prior to any vista pruning,

a site meeting between the landscaping contractor and the Town of Bourne's Conservation agent must occur. The Conservation agent must approve all proposed vegetation removal. Any unapproved clearing will result in a violation of the Wetlands Protection Act and the Town of Bourne's Wetlands Protection Bylaw and will be subject to enforcement action, 2) all existing wooden planks and stairs within the Resource Areas must be removed during construction of the approved walkway 3) no stain or paint may applied to the walkway once it's in place.

Public Comment – None.

Mr. Ligor entertained a motion to close the public hearing. **Mr. Holmes moved, Ms. Leduc 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; 1-4, 7-10, 12, 14, 15, 18, 19, 22, 27, 28, Special Conditions pursuant to the Bourne Wetlands Protection Bylaw, 2, 6, 7, 23, 24 and the three additional Special Conditions stated by the agent.

Mr. Ligor entertained a motion to move the Draft Order of Conditions to the Final Order of Conditions. **Mr. Holmes 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 meeting

Request to Amend Order of Conditions:

- 1) Ken Vona
File Number: SE7-1904
Representative: Same
34 Baxendale Road, Bourne

To amend the Order of Conditions SE7-1904 to allow the installation of an in ground pool, decking, fence, substantial plantings along with associated grading, landscaping, utilities and other appurtenances within an AE 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 May 4, 2017 meeting)

Barbara Frappier addressed the board. She referred to the site plan and provided a brief explanation for their request to amend the Order of Conditions. She explained, the applicant would like to install an in ground pool; which abuts the 50 foot buffer. Also being proposed is a stone patio, as well as a significant amount of plantings which is mitigation for the extensive amount of invasive species that was previously removed from the Coastal Bank. Ms. Frappier mentioned that while Mr. Haines was on site performing a site inspection, he expressed additional concerns about the project; which will be corrected.

Board Comment – Mr. Ligor asked for the size of the proposed pool. Ms. Frappier stated it will be 32'x 24'. Mr. Ligor asked if most of the trees on the site will be removed. Ms. Frappier stated any vegetation that is in the direct vicinity of the proposed pool will be removed. Mr. Haines stated there's approximately 12-15 mature Pines and Oaks that will be removed.

Ms. Leduc opened a brief discussion with regard to the location of the proposed fence. She also asked for one revised plan because several plans were submitted. Ms. Frappier agreed.

Agent Comment – Mr. Haines stated initially, he was focused on the Coastal Bank and the fact that the Coastal Bank had been cleared. This was all done under an administrative approval; therefore, there were no conditions for any of the invasive species removal on the Bank. Another issue that was just discovered is there is a second Coastal Bank. Ms. Frappier stated at a previous hearing for the replacement of the septic system, that Bank was not taken into consideration by the Commission because it is located beyond the house. After a lengthy discussion, it was decided that Mr. Haines will review the recordings of the septic system upgrade hearing to determine what was discussed with regard to the second Coastal Bank. Mr. Holmes asked when that hearing transpired. Mr. Haines stated that public hearing was closed 8/21/2014. Ms. Frappier stated she believes the septic system upgrade was approved under an RDA.

Mr. Ligor opened a brief discussion with regard to the number of trees that will be removed and the planting mitigation plan.

Ms. Leduc asked if there is another location on the property that could accommodate the pool in order to avoid removing such a large number of trees. Mr. Haines stated

there's an existing landscaped part of the property, but believes this is where the septic system is located.

The Commission requested that one plan be submitted and Mr. Haines requested an updated planting plan be submitted. The representative agreed and asked that the matter be continued to June 15, 2017.

Mr. Ligor moved, Mr. Holmes seconded to continue the matter to June 15, 2017.

With no further discussion, the motion carried. 6-0-0.

Request for Certificate of Compliance:

1) Victor and Miriam Gilbert

File Number: SE7-1902

Representative: Bracken Engineering, Inc.

35 Maryland Drive, Bourne

Razing existing dwelling, construct a flood compliant single family dwelling with associated utilities and site work within an AE Flood Zone, V Flood Zone and within 100 feet of a Wetland Resource Area.

Agent Comment – A site visit was performed on May 17, 2017. The project was found to be in compliance with the Order that was set. Mr. Haines recommended issuance of the certificate.

Chm. Gray entertained a motion. **Mr. Holmes moved, Mr. Ligor seconded to issue the Certificate of Compliance.** With no discussion, the motion carried. 6-0-0.

Other Business:

- Revisions to the Bourne Conservation Commissions Landscaping and Yard Work Policy 10-1 –

The Commission discussed the revisions to the Landscape and Yard Work policy. After discussing the proposed revisions and concerns about how the policy related to the town's Wetland Protection Bylaw, it was determined that the matter should be placed on the June 15, 2017 agenda to allow the Commissioners more time to review the document.

- Vote excused absent members, if necessary –

Mr. Ligor moved, Ms. Weston seconded to excuse the absent members. With no discussion, the motion carried. 6-0-0.

- Acceptance of Previous Meeting Minutes –

Chm. Gray entertained a motion to accept the minutes of the March 16, 2017 meeting.

Mr. Holmes moved, Mr. Ligor seconded to accept the minutes of the March 16, 2017 meeting as revised. With no discussion, the motion carried. 6-0-0.

Acceptance of the April 6, 2017 meeting minutes – Deferred.

- Report of the Conservation Agent – None.

- Public Comment – None.

- Correspondence – Mr. Haines discussed a letter that was received from National Grid concerning the installation of a gas line on Crow’s Nest and Wolf Road. In his opinion, this is exempt.

The annual Coastal Railroads 2017 yearly operational maintenance plan was received. Mr. Haines will add this to a future agenda if he finds any major discrepancies from the RDA.

Mr. Haines stated he is slowly working on updating the 4 Ponds area. He asked for the Commission’s opinion on markers he’d like to order for the trails. A brief discussion transpired with regard to the style of marker he will order. Also discussed was grant money that may be available for habitat restoration.

- Any other business that may legally come before the Commission – None.

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

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

II. Adjournment

Mr. Holmes moved, Ms. Weston seconded to adjourn. With no discussion, the motion carried. 6-0-0. The meeting adjourned at 8:50 PM.

Minutes submitted by: Carol Mitchell