

Conservation Commission

Meeting Minutes

Town Hall Lower Conference Room

24 Perry Ave., Buzzards Bay, MA 02532

May 3, 2018

I. Call to order

Mr. Palumbo called to order the meeting of the Conservation Commission at 7:00 PM on May 3, 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 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 Palumbo, Susan Weston, Thomas Ligor, Paul Szwed, Elise Leduc and Associate Member, Greg Berman.

Excused Members: Robert Gray and Melvin P. Holmes.

Also Present: Carol Mitchell, Michael Opachinski, Bradley Bertolo, Joe Moore, Karen Moore, Paul Forgione, Paul Pacella, Michael Ball, Pedro Hernandez and John Lavelle.

Request for Determination of Applicability:

1) Applicant: Michael N. and Nancy D. Opachinski
File Number: CC18-12
Representative: Self
35 Pine Ridge Rd., Buzzards Bay

To install a 4' fence within a V Flood Zone and 100 feet of a Wetland Resource Area.

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

Michael Opachinski addressed the members. He and his wife would like to fence in their rear yard with a combination chain link/ decorative four-foot fence. He described the proposed location of the fence stating the purpose of the proposed fence is to contain their two dogs.

Board Comment – Mr. Szwed asked if there is anything existing now. Mr. Opachinski stated there's remnants of an old fence along the property line of one of the abutters.

Ms. Leduc asked if there is existing lawn in the area they are seeking to fence in. Mr. Opachinski stated yes and there are existing Junipers on the slope.

Ms. Leduc noted a patch of Rosa rugosa just seaward of the proposed fence location. Mr. Opachinski agreed.

Ms. Leduc asked whether the applicant is planning to install the fence himself. Mr. Opachinski stated he has hired a contractor to install the fence.

Ms. Leduc asked if the fence will be installed by hand or if machinery will be used. Mr. Opachinski stated it will be installed by hand.

Mr. Ligor referred to a site photograph and asked if there is a trench on the property in the proposed location. Mr. Opachinski stated no, it may be a shadow on the photograph.

Mr. Berman asked if the proposed fence will be installed on the rugosa, marsh or other Resource Area. Mr. Opachinski stated it will run only along the existing lawn area.

Ms. Weston stated she'd like to hear from the agent. Mr. Palumbo explained Mr. Haines would not be at the meeting due to a family emergency.

Public Comment – None.

Mr. Palumbo entertained a motion. **Mr. Ligor moved, Ms. Leduc seconded a Negative Two Determination.** With no discussion the motion carried. 5-0-0.

Mr. Palumbo announced both Patti and Kevin O'Keefe and Joseph Botti Company (Lots 1 & 2) requested a continuance to May 17, 2018.

2) Applicant: Jasmine Gaudet
File Number: CC18-13
Representative: J.C. Engineering, Inc.
43 Wallace Avenue, Buzzards Bay

To replace failed septic system with a new Title V system 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)

Brad Bertolo addressed the members and discussed the proposed project.

Board Comment – None.

Public Comment – None.

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

Notice of Intent

1) Applicant: Joseph F. and Karen L. Moore
File Number: SE7-2016
Representative: Holmes and McGrath, Inc.
65 Winsor Rd., Cataumet

To perform structure repair, site modifications, 110 linear feet of riprap and bulkhead removal, reconstruction of licensed stone riprap and groin repair, relocation of existing stairway, path deck platform; repair existing bathhouse, deck replacement and landscape improvements; reconstruction of stone steps, installation of fence and reinforced turf, and all other associated construction access and landscaping within a V Flood Zone and within 100 feet of a Wetland Resource Area.

Materials Reviewed – Site Photographs, Site Plan of Record, Chapter 91 License, Graphic of Safety Fence and DEP Wetlands Change Mapping.

Tim Santos addressed the members and discussed the location of the property. He provided a detailed summary of the proposed project.

Board Comment – Ms. Weston questioned the location of the proposed safety fence. Mr. Santos referred to the plan to pinpoint the proposed location at the top of the bank.

Mr. Szwed asked if the repair section of the riprap is covered under the license. Mr. Santos stated it is. A brief discussion transpired regarding the condition of the 100 linear feet vs. the remaining section of the riprap.

Mr. Palumbo asked how the site will be accessed. Mr. Santos discussed the construction access.

Mr. Palumbo questioned the bathhouse and deck repair. Mr. Santos stated the deck will be removed in order to repair the riprap. A new deck will be reconstructed within the same footprint. The bathhouse will remain in place.

Mr. Berman asked what material the safety fence will be. Mr. Santos introduced Paul Pacella of Post and Beam of Cape Cod who provided detailed information about the proposed repairs to the bathhouse, the riprap and the proposed fence. Additionally, Mr. Pacella discussed the proposed relocation of the existing stairs; which they would like the bottom section to be removable to prevent ice damage.

Mr. Ligor asked if any measures will be taken to protect the saltmarsh down below. Mr. Pacella discussed the erosion control measures that will be implemented.

Mr. Ligor asked if any equipment or construction personnel will be on the saltmarsh. Mr. Santos stated no.

Ms. Weston asked if the work on the riprap will be performed from the top. Mr. Santos and Mr. Pacella stated yes. Mr. Pacella explained that the tide reaches the riprap daily; therefore, the work will have to be performed from the top.

Mr. Berman asked if any cement or grout will be used to repoint the riprap. Mr. Pacella discussed a similar project completed at a neighboring property explaining they chipped out a lot of the broken and compromised mortar and used an accelerated drying mix working from the bottom up. Mr. Pacella then explained in detail which areas of the revetment will be mortared vs. dry laid boulder.

Mr. Berman questioned the type of reinforced turf being proposed. Mr. Pacella explained a compacted bluestone base will be spread then a hexagon plastic webbing is laid with a loamy/sand mix on top of that and then sod will be placed over that. The finished product

will look like a lawn. Mr. Berman asked if the existing area is already lawn. Mr. Pacella stated it is.

Mr. Ligor asked if the proposed turf will need to be fertilized. Mr. Pacella doesn't think fertilizer will be necessary stating they try to stay away from applying fertilizer near the coast. Mr. Ligor expressed concern of wash down onto the marsh. Mr. Pacella stated they will be careful to protect the edges until all of the vegetation has grown in.

Ms. Leduc opened a brief discussion regarding the species of plants being proposed to replant the slope once the stairs have been relocated.

Public Comment – None.

Mr. Palumbo stated if the Commission members feel there is sufficient evidence to close the hearing they may do so; however, the matter will have to be continued for the Order of Conditions. Ms. Weston questioned whether they should wait for input from Mr. Haines. Mr. Palumbo explained he spoke with the agent whose only concern about this project was access. He wanted to be sure access to the site would not be from the seaward side; which it won't be as Mr. Palumbo confirmed earlier. Mr. Haines stated he is comfortable with the Commission closing the hearing if they are. Mr. Pacella stated he met with the agent at the site prior to the hearing.

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. 5-0-0.

The Order of Conditions will be issued at the next hearing on May 17, 2018.

2) Applicant: Robert G. and Kathleen F. Ix

File Number: SE7-2017

Representative: Holmes and McGrath, Inc.

464 Scraggy Neck Rd., Cataumet

To demolish and reconstruct single family home with attached garage, detached guest house, porches, terraces, fire pit, Title V septic system, driveway, utilities, drywells; reconstruction of timber stairs and landing over Coastal Bank, associated clearing, excavation, grading and landscaping within an AE Flood Zone and Wetland Resource Area.

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

Tim Santos addressed the members and discussed the Resource Areas located on the property as well as the proposed project. He stated the proposed project will move the dwelling twenty feet further away from the top of the bank. Mr. Santos explained all roof and driveway runoff will be diverted to drywells and leaching pits. Additionally, the applicants are proposing to upgrade the existing septic system which will be located at the front of the house; approximately two hundred feet from the top of the bank. Mr. Santos stated they previously met with the agent regarding the proposed project.

Board Comment – Mr. Ligor questioned work that was performed under an emergency act. Mr. Pacella stated erosion tore out the beach stairs and left them hanging onto one side so the stairs were removed and cobble and sand were installed on the bank.

Mr. Pacella discussed the design and proposed location of the new dwelling. Mr. Palumbo stated the agent is pleased that it will be further away from the top of the bank. Mr. Pacella discussed erosion control measures that will be implemented during the construction phase and the need to return under a separate filing to present a planting plan to revegetate the slope.

Mr. Ligor opened a brief discussion regarding the proposed tree removal on the site.

Mr. Palumbo asked for additional information regarding the stair reconstruction. Mr. Pacella stated the proposed stairs will be a natural cedar open riser with a platform at the top and rails.

Mr. Szwed asked whether a shed is being proposed. Mr. Pacella stated the existing shed will remain. Ms. Leduc noted the plan states the shed will be razed. Mr. Palumbo had the representative adjust and initial the plan to reflect that the existing shed will remain.

Mr. Berman opened a brief discussion regarding the proposed patio and the existing retaining wall.

Public Comment – None.

Ms. Weston questioned whether they should wait for the agent's input. Mr. Palumbo stated he spoke with the agent about this project and he didn't have any strong comments about it other than he was pleased the proposed dwelling would be moved further from the top of the bank.

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

The Order of Conditions will be issued at a future hearing.

3) Applicant: John J. Flatley

File Number: SE7-2018

Representative: Holmes and McGrath, Inc.

52 Pasture Rd., Cataumet

To construct and maintain a clay tennis court, fencing and retaining walls including all clearing, excavation, grading and landscaping 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.

Tim Santos addressed the board and described the proposed project.

Mr. Ligor questioned the number of trees being removed. Mr. Santos referred to the plan and discussed the limit of the work.

Mr. Szwed opened a brief discussion regarding drainage at the site.

Ms. Weston asked if the agent provided any feedback about this project. Mr. Palumbo stated the agent did not have any issues with the project.

Mr. Ligor commented on the wetland located on the property. Mr. Palumbo stated the project meets the setback 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. 5-0-0.

Mr. Szwed recused himself from discussion and vote.

4) Applicant: Massachusetts Maritime Academy

File Number: SE7-

Representative: Baxter NYE Engineering and Surveying

101 Academy Drive, Buzzards Bay

To construct a 1,519 sq. ft. addition to the Mess Deck / Food Service building with modification of existing paved parking area and improvements to existing storm water facilities within an AE Flood Zone.

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

(Reviewed Under State Act Only)

Michael Ball and John Lavelle addressed the members. Mr. Ball explained the project involves construction of a 1,519 sq. ft. addition, building loading docks and improvements to the parking area. He stated storm water management has been met and the project is well outside both the buffer zone to the nearest coastal resource area and The Natural Heritage & Endangered Species Program's Priority or Estimated Habitat.

Board Comment – Mr. Palumbo questioned the location of the proposed addition. Mr. Ball referred to the plan explaining the proposed addition will be built over an existing paved parking area. He stated a small area of pavement will remain to allow delivery trucks to back safely into the new loading docks. Mr. Lavelle stated the purpose of the addition is to provide additional space for a better kitchen facility not to increase the meal count.

Mr. Berman opened a brief discussion regarding storm surge flow.

Mr. Ligor stated the academy has frequently appeared before the board and often seeks additional parking. He questioned why with this project they're eliminating parking spaces and asked where will it be made up on the rest of the campus. He also questioned why there's a discrepancy in the square footage of the Mess Deck on the plan vs. on the application. Paul Forgione with the Massachusetts State College Building Authority stated the proposed square footage is just over 1,500 sq. ft. The project manager, Pedro Hernandez, stated the parking area that will be eliminated is primarily used by the kitchen staff. He explained that staff parking will either be relocated to the loop road or to the Beachmoor.

Mr. Palumbo again questioned why there is a discrepancy with the square footage listed. Mr. Lavelle stated the proposed addition will be 1,519 sq. ft. Mr. Palumbo questioned whether a file number had been issued. Mr. Ball stated no. Ms. Leduc stated since the matter has to be continued, it would be advisable to have accurate information regarding the square footage. Mr. Ball stated he will clarify the square footage at the next meeting.

Mr. Palumbo opened a brief discussion regarding the representative's comments that the project meets Storm Water Redevelopment.

Ms. Leduc obtained the abutter notifications.

With no further discussion, **Ms. Leduc moved, Mr. Ligor seconded to continue the matter to 5/17/18.** The motion carried 5-0-0.

Mr. Szwed returned to the meeting.

5) Patti and Kevin O'Keefe

File # SE7-1993

Representative: MM Environmental
130 Wings Neck Road, Pocasset

Reconstruct and enlarge a deck; permit an existing dog enclosure fence; remove a paver walkway and replace with elevated saltmarsh boardwalk and invasive species management within a V Flood Zone and a Wetland Resource Area.

(Continued from 3/1/18. Continued to 5/17/18)

6) 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 4/19/18. Continued to 5/17/18)

7) 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 4/19/18. Continued to 5/17/18)

Other Business:

- Vote excused absent members, if necessary – **Mr. Ligor moved, Ms. Leduc seconded to excuse Mr. Gray and Mr. Holmes.** With no discussion, the motion carried. 5-0-0.
- Acceptance of Previous Meeting Minutes – Deferred.
- 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.

II. Adjournment

Ms. Weston moved, Ms. Leduc seconded to adjourn. With no discussion, the motion carried. 5-0-0. The meeting adjourned at 8:05 PM.

Minutes submitted by: Carol Mitchell