

Conservation Commission

Meeting Minutes

Town Hall Lower Conference Room

24 Perry Ave., Buzzards Bay, MA 02532

June 7, 2018

I. Call to order

Chm. Gray called to order the meeting of the Conservation Commission at 7:00 PM on June 7, 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, Thomas Ligor, Susan Weston, Elise Leduc, Paul Szwed and Melvin P. Holmes.

Excused Members: Rob Palumbo and Associate Member, Greg Berman.

Also Present: Sam Haines, Carol Mitchell, Paul Gately, Sofia Halunen, Liz Costa, Chris White, Michael Clark, Nancy Bolles, Bill Webster, Polly Webster, Jack Landers-Cauley, Ken Feeney, Alex Joyce, Bob Rego, Tadhg Sweeney, Edith Sweeney, Robert Mascali and Chris Gilbert.

7:00 Presentation by Girl Scouts Elise Dean and Sofia Halunen of Troop 62919 who are proposing to construct a walking bridge in the Four Ponds Conservation Area.

Sofia Halunen briefly discussed the proposed project. Mr. Haines elaborated explaining there's a breach in one of the walking paths at the Four Ponds Conservation Area. The two scouts along with their parents are proposing to construct a foot path across the breach in order to achieve a Bronze Award. Mr. Haines supplied the members with material pertaining to the proposed project and commended the girls for their effort.

Request for Determination of Applicability:

1) Applicant: Jared Kent

File Number: CC18-17

Representative: J.E. Landers-Cauley Civil Environmental Engineering.

470 Wings Neck Road, Bourne

To construct a single-family residence, garage, driveway, new Title V system and usual appurtenances within an AE Flood Zone.

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

(Under State Act Only)

Jack Landers-Cauley addressed the members and discussed the proposed project. He discussed the reason why he's filing under an RDA vs. a Notice of Intent and described the proposed limit of work.

Mr. Haines asked the representative to show the members where the edge of the Flood Zone is. Mr. Landers-Cauley pinpointed the Flood Zone on the plan and stated the proposed dwelling does not have to comply with Floodplain Standards because it will be constructed outside of the Flood Zone.

Board Comment – Ms. Leduc questioned whether the lot has already been cleared. Mr. Landers-Cauley stated some clearing has occurred on the site. He referred to the agent to elaborate further.

Agent Comment – Mr. Haines explained there was a miscommunication between him and the applicant who had emailed asking for permission to cut in the road and perform some tree clearing to allow for survey stakes to be placed within the property and some test fitting for the septic which are exempt from the Wetlands Protection Act. As a result of the miscommunication, the entire lot to the limit of work was cleared.

Mr. Landers-Cauley stated there are four or five trees beyond the limit of work they are seeking to remove. Mr. Ligor asked how many trees inside the limit of work were removed. A brief discussion transpired regarding the clearing that occurred within the Commission's jurisdiction.

Mr. Haines stated this is a lot of work to be approved under an RDA; however, the actual house is not located within the flood zone and since its within AE flood zone it is being heard under the state act only. There aren't any performance standards under the state act which is why the representative felt an RDA filing was appropriate. Mr. Haines stated a more detailed analysis of the Resource Areas needs to be provided to better determine where the landward edge of the Coastal Bank is located. He stated the proposed work is clearly outside of the 100' buffer from any jurisdictional Resource Area so that's not pertinent to this project but may be in the future. He recommended marking the plan and attaching a condition stating action taken by the Commission does not indicate acceptance of the Resource Area delineation. This Determination does not permit any activity with the Wetland Resource Areas or the 100' buffer. No work shall occur seaward beyond the approved limit of work as shown on the Plan of Record. Prior to any future filing seaward of the approved limit of work, the Wetland Resource Area must be delineated and marked in the field by a wetland scientist or a coastal geologist.

Ms. Leduc wanted to clarify that no work can occur seaward of the limit of work without a future filing; including any widening of the existing trail to the water. Mr. Landers-Cauley agreed.

Public Comment – None.

Chm. Gray entertained a motion. **Mr. Holmes moved, Ms. Leduc seconded a Negative Two Determination with the conditions previously stated.** With no discussion the motion carried. 6-0-0.

2) Applicant: Peter Piscia

File Number: CC18-18

Representative: Elizabeth Costa

46 Monument Ave, Monument Beach

To remove existing trees and perform landscaping within an AE Flood Zone and within 100 feet of a Wetland Resource Area.

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

Elizabeth Costa addressed the members. She provided a revised Landscape Plan and explained the pertinent information hasn't changed; she just highlighted the Resource Area on the new plan. Ms. Costa offered a brief description of the proposed project.

Board Comment – Mr. Ligor opened a brief discussion regarding the number of trees being removed.

Mr. Haines questioned whether any herbicide application is being proposed. Ms. Costa stated she doesn't feel that will be necessary.

Mr. Haines questioned whether *Lonicera halliana*, one of the plants that's being proposed is on the state's invasive species list. Ms. Costa stated it is; however, the only reason why she's proposing it is because it will be trained up the trellis and serve for aesthetic purposes; not run wild. Mr. Haines asked whether the proposed placement is within the Commission's jurisdiction. Ms. Costa stated it is outside of the Commission's jurisdiction. Mr. Haines suggested she consider an alternative.

Agent Comment – Mr. Haines discussed drainage concerns he has and work within the road layout. He met with George Sala and Matt Quinn of the DPW. They too have concerns about drainage and how the proposed work will affect the town's catch basins. They also have concerns with clearing being proposed within the road layout, the cobble apron, snow plowing impacts and the granite hitching posts. Since work is proposed within the town layout, Mr. Haines recommended the Commission condition any negative determination that the DPW superintendent approve the work prior to construction.

Ms. Leduc asked whether the entire property is located within the Flood Zone and whether the agent has concerns with the proposed construction of retaining walls and fences. Mr. Haines stated no, not in an AE Flood Zone; there are no restrictions in an A Zone and the bylaw doesn't apply. Adding that he doesn't see any issues other than the site will hold a lot of water if it does flood.

Mr. Holmes discussed the possibility of relocating the smaller Cedar trees rather than removing them.

Public Comment – None.

Chm. Gray entertained a motion. **Mr. Holmes moved, Ms. Weston seconded a Negative Two Determination with the conditions previously stated.** With no discussion the motion carried. 6-0-0.

Notice of Intent

1) 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 the Riverfront Area and within 100 feet of a Wetland Resource Area.

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

(Continued from 5/17/18)

Chris Gilbert addressed the members explaining the matter was continued to research whether any additional information could be gathered to determine whether the river is perennial or intermittent. He explained that a study of the flow was started back in 2007 and because it was found that the flow was controlled by the cranberry bog, the study was terminated. Mr. Gilbert then provided a quick overview of the proposed project.

Board Comment – Chm. Gray asked if the representative discussed with the applicant the clean up of the debris that's currently located on the site. Mr. Gilbert stated he did not; however, the applicant owns an excavation company so he doesn't see it being a problem.

Ms. Weston read the notice and asked why it doesn't specifically mention the razing and rebuilding of a new house. Mr. Gilbert stated they will raze the existing building and rebuild the house on the existing foundation. Mr. Haines explained that is how the narrative was written in the Notice of Intent application; therefore, that's how it was written into the Notice. Adding that at the previous hearing, the Commission allowed the matter to proceed under the existing Notice because the existing foundation is being used for the project.

Ms. Weston asked if it's been determined that the existing foundation is usable. Mr. Gilbert stated they are hoping it is. Ms. Weston asked if they will be required to come back before the Commission if the existing foundation isn't usable. Mr. Haines stated the applicant will either have to amend the Order of Conditions or, if they remain inside the limit of work and within the same footprint; then, with the Commission's permission, he could administratively approve it.

Ms. Leduc asked if the Commission wants excavating equipment in the stream to clean up the existing debris. Chm. Gray explained the equipment will not be near the stream and asked the representative to pinpoint the location of the debris on the plan.

Agent Comment – Mr. Haines stated the applicant is aware that the mitigation area that's shown on the plan is a no-touch area and has to remain that way in perpetuity; as part of the Riverfront Act. Mr. Gilbert agreed. Mr. Haines reiterated that there isn't any record of a perennial stream determination; the study was started but never completed. The removal and restoration of over 5,000 square feet of impervious pavement with a commitment from the applicant to keep the proposed driveway as pervious in perpetuity appears to meet the criteria for Riverfront Area redevelopment. The landscaping does not specify what type of seed will be used in the area or specific species of plants being proposed, so the Commission may add conditions 25 and 26; which require a detailed landscaping plan prior to any occupancy permit. He also suggested applying a condition to the Order to protect the mitigation area in perpetuity as required by the Riverfront Act.

Mr. Ligor opened a brief discussion regarding the stream being classified as perennial.

Chm. Gray asked the representative how many square feet in pavement is being removed as part of the mitigation. Mr. Gilbert stated approximately 6,000 square feet. Mr. Haines stated based on aerials, the area is approximately 5,600 square feet.

Public Comment – None.

Chm. Gray 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. 5-0-1. Ms. Weston abstained.

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, 16, 18, 19, 21, 24, 25, 26, 27, 28, 29, Special Conditions pursuant to the Bourne Wetlands Protection Bylaw Article 3.7 number; 2, 4, 5, 6, 7, and ASC (1) this Order prohibits the alteration within the restoration or mitigation area once it is established, except as required to maintain the area in restored mitigating condition. This Condition shall continue in perpetuity, ASC (2) the debris located along the edge of the Coastal Bank must be removed and the area restored with native vegetation.

After a brief discussion regarding Special Condition number 26, Chm. Gray entertained a motion to move the Draft Order of Conditions to the Final Order of Conditions. **Ms. Leduc moved, Mr. Holmes seconded to move the Draft Order of Conditions to the Final Order of Conditions.** With no discussion, the motion carried. 5-0-1. Ms. Weston abstained.

2) 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.

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

(Continued from 5/17/18)

Chris Gilbert addressed the members. He described the location of the property and briefly discussed the proposed project.

Board Comment – Ms. Weston asked whether this filing had been previously discussed. Chm. Gray indicated yes. Ms. Weston stated she will abstain from discussion and vote because she was not present at that time.

Ms. Leduc asked if the proposed driveway will be pervious or impervious. Mr. Haines stated that has not been discussed. Mr. Gilbert stated he will abide by the Commission's recommendation. Ms. Leduc stated a permeable surface is always better.

Mr. Haines asked if the proposed driveway is within 100 feet of the Resource Area. Mr. Gilbert stated it is.

Mr. Szwed briefly discussed the proposed grading.

Mr. Haines asked the representative to explain the area colored in yellow on the plan. Mr. Gilbert stated the yellow represents a 50-foot impervious surface buffer from the top of the Coastal Bank.

Agent Comment – Mr. Haines stated normally, on an undeveloped lot, the Commission requires a 50-foot naturalized area; however, due to the Riverfront Area and the setback, there's not a lot of area left for a yard. It's his opinion that the Commission should require the proposed 30-foot setback remain naturalized allowing for a limited yard on the site. Otherwise, the alteration has been limited by the Riverfront Act, all of the proposed structures are outside of the 50-foot buffer; so, he didn't identify any issues with the project.

Public Comment – None.

Chm. Gray 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. 5-0-1. Ms. Weston abstained.

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, 16, 18, 19, 21, 24, 27, 28, 29, Special Conditions pursuant to the Bourne Wetlands Protection Bylaw Article 3.7 number; 2, 3, 4, 5, 6, and 7.

Chm. Gray 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. 5-0-1. Ms. Weston abstained.

3) Applicant: 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, Access Agreement, Saltmarsh Management Plan and DEP Wetlands Change Mapping.

(Continued from 5/17/18)

Michael Clark addressed the members. He stated the reason the matter was continued was because there were several items that needed to be addressed; i.e., an access agreement had to be obtained and DMF recommended a saltmarsh remedial plan; both have been addressed. Mr. Clark briefly discussed the remedial plan.

Ms. Leduc recommended as part of the remedial plan, the representative take the photographs of the marsh in late summer vs. the spring as stated by the representative during his presentation. Additionally, for consistency, she suggested the photographs be taken from the same location each time. The representative agreed. A discussion ensued.

Agent Comment – Mr. Haines explained the revisions needed to the Saltmarsh Management Plan can be handled two ways; either continue the matter or, condition the Order that a revised Saltmarsh Management Plan must be provided to the Conservation agent which incorporates the documented revisions. Chm. Gray said that would be fine.

Public Comment – William Webster spoke of the urgency to complete the project due to damage the bridge sustained over the winter. Mr. Haines said there has been degradation to the saltmarsh.

Chm. Gray 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. 6-0-0.

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, 8, 9, 10, 12, 14, 18, 19, 20, 27, 28, 29, Special Conditions pursuant to the Bourne Wetlands Protection Bylaw Article 3.7 numbers; 6, 7, 15, 18, 21, 22, 24, 25, and ASC (1) action taken at this time does not indicate acceptance of any Wetland Resource Area boundaries by the Conservation Commission, ASC (2) as shown on the revised plan, signage must be installed at the edges of the pathway informing pedestrians to please stay off the saltmarsh, ASC (3) the stairs installed at each end of the bridge must have open risers to allow light penetration to the ground below, ASC (4) if the crane or any other equipment is required to enter the Resource Area, all equipment including outriggers must be placed on swamp mats. Any damage to the saltmarsh vegetation must be immediately restored after the removal of the mats, ASC (5) this Order does not allow for the placement of additional sand or fill within the 18” to 24” pathway or in any other Resource Area, ASC (6) this Order requires yearly monitoring of the saltmarsh for a guidance from the Massachusetts Division of Marine Fisheries and the Saltmarsh Management Plan prepared by Design Consultants Inc. Yearly observations must be delivered to the Conservation Department and any observed damage to the marsh from the project or pedestrian traffic must be restored by the applicant, ASC (7) a revised Saltmarsh Management Plan must be provided to the Conservation agent which incorporates documented revisions requested by the 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. 6-0-0.

Chm. Gray announced the matter pertaining to 165 Jefferson Road, Gray Gables is continued to June 21, 2018, at the request of the applicant. Alex Joyce, the attorney representing abutters Jeff Lau and Ingrid Hammond, requested that the matter be continued to the second week in July. He explained that not only will he be out of town on June 21st; but no Zoning Board of Appeals hearing has been opened on the matter; however, an application has been filed. Mr. Haines stated the Commission can't issue that request without the acceptance of the applicant. Chm. Gray stated the applicant controls

the request for a continuance. Attorney Joyce stated the Commission has wide latitude with granting continuances. Mr. Haines agreed but only with the acceptance of the applicant. After a brief discussion, Chm. Gray stated they are beyond the twenty-one days that the Notice of Intent was received. He read from the regulations that state a public hearing may be continued as follows; 1) without the consent of the applicant to a date announced at the hearing within twenty-one days of the receipt of the notice, 2) with the consent of the applicant to an agreed upon date which shall be announced at the hearing or, with the consent of the applicant for a period not to exceed twenty-days after submission of a specified piece of information. Chm. Gray explained the applicant controls the continuance once outside of the twenty-one days of accepting the Notice of Intent. A brief discussion transpired regarding the waiver that's included with the NOI package. Mr. Haines asked Attorney Joyce to submit his continuance request in writing so that he may relay it to the applicant.

4) Applicant: Jean Vendice and Ed Sodney

File Number: SE7-2021

Representative: River Hawk Environmental, LLC.

17 South Road, Pocasset

To construct a single-family dwelling, garage, guest house septic system, well, grading driveway, utilities, and elevated walkway within a V Flood Zone and within 100 feet of a Wetland Resource Area.

Materials Reviewed – Site Photographs, Revised Site Plan of Record, Profile of Elevated Walkway, Letter from The Natural Heritage & Endangered Species Program, Natural Heritage Rare Species Observation Form for Box Turtle and DEP Wetlands Change Mapping.

(Continued from 5/17/18)

Bob Rego addressed the members. He stated he submitted revised plans subsequent to the meeting but the agent found an error on them so he will resubmit corrected plans. He discussed the changes made to the plans since the previous meeting, some of which include; changes to the length and width of the elevated walkway and corrections made to the impact to the saltmarsh based on the diameter of the pilings. Mr. Rego stated a no take letter was received from The Natural Heritage& Endangered Species Program, adding the location of the dwelling and a proposed limit of work was staked out on the property. The agent met the representative of the project at the site and they discussed what trees would be removed as part of the vista clearing.

Board Comment – None.

Mr. Haines questioned whether there are any Chapter 91 concerns with the stairs touching down on the saltmarsh and asked whether they could be elevated. Mr. Rego explained the last piling at the end of the stairs will not be a full height piling so the stairs will not rest directly on the marsh, they'll rest on the pilings. Mr. Haines suggested the Commission place a minimum clearance condition underneath the last step of the stairs.

Mr. Haines asked how heavy the removable stairs will be. Mr. Rego stated they are proposing aluminum stairs that weigh approximately 200 pounds. He stated the risers will be open to allow light penetration.

Ms. Leduc asked if he's proposing a short pile be driven and remain in place permanently for the stairs to rest upon every spring when reinstalled. Mr. Rego stated yes and there will also be a connection for the stairs to hang on.

Chm. Gray opened a brief discussion regarding the size of the posts, the number of proposed pilings and the square footage calculation of displaced saltmarsh.

Agent Comment – Mr. Haines stated a DEP file number has been received as well as a no take determination. The Commission also received a copy of a Natural Heritage Rare Species Observation Form for Box turtles in the neighborhood; however, this site is not mapped for Box turtle. Mr. Haines stated based on his experience with The Natural Heritage & Endangered Species Program, if it's not mapped, they won't require mitigation. It may affect future projects but with this filing in place, he doesn't think they'll reverse a previous decision that is based on 2018 mapping. On June 5th he met with representatives of the current and future property owners at the site to discuss the proposed vista clearing. It is his opinion that the Commission could allow limited tree clearing within the 50-foot buffer under the supervision of the agent. But, he recommends conditioning the Order that the 50-foot buffer remain naturalized, no clearing in this area below three feet in height and only trees permitted by the agent at a pre-clearing site visit with the contractor will be allowed to be removed. Mr. Haines briefly discussed the proposed vista clearing.

Additional Board Comment – Chm. Gray noted that the driveway, the septic system and a good portion of the proposed dwelling is outside the Commission's jurisdiction. Mr. Haines clarified that the proposed house is in an AE Flood Zone. Chm. Gray reviewed the plan and agreed that the proposed house is located within a Flood Zone.

Public Comment – Abutter, Tadhg Sweeney thanked the engineer and the Commission for their due diligence. He questioned the rare species mapping of the site. Mr. Haines explained the area has not been mapped by The Natural Heritage & Endangered Species Program as Box turtle habitat. He explained the reasons why the area may be mapped as rare species habitat.

Mr. Sweeney questioned whether the vista pruning will be clarified in the minutes. Mr. Haines stated the proposed vista pruning will be outlined in the Order of Conditions. He explained that he performed a site visit in March and together with the property owner, pink flagged the proposed trees for removal.

Mr. Sweeney asked how the piles will be driven in without impacting the area that's being crossed. Mr. Rego explained the installation process.

Mr. Sweeney questioned whether the pool type has been determined. Mr. Rego stated the proposed pool will be salt water.

Mr. Sweeney opened a brief discussion regarding storm water runoff.

Chm. Gray elaborated further on the walkway construction methodology.

Abutter, Edith Sweeney, expressed concern over the size of the proposed walkway. She stated no other walkway on Wings Neck is as large and she feels the Commission will be setting a precedent if they allow a structure that is proposed to be approximately 120 feet in length and 9 feet high to be constructed. Chm. Gray stated saltmarshes have the most protection of any of the Wetland Resource Areas under the Wetlands Protection Act; but, it has a prescribed approval for an elevated walkway through the marsh as long as it meets height requirements and doesn't adversely impact the marsh. Mr. Haines and Ms. Leduc elaborated further. A brief discussion ensued.

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. 6-0-0.

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, 12, 14, 15, 16, 18, 19, 20, 21, 22, 27, 28, 29, Special Conditions pursuant to the Bourne Wetlands Protection Bylaw Article 3.7 numbers; 2, 3, 4, 5, 6, 7, 9, 10, 12, 14, 15, 16, 18, 20, 21, 22, 24 and 25. Mr. Haines explained that number 20 was amended. The following Additional Special Conditions apply; ASC (1) prior to any vista clearing, the contractor must set up an onsite meeting with the Conservation agent and the agent must approve all vegetation removal. Ground cover and shrubs within the vista viewshed shall be maintained at a height of three feet or greater; no clearing is allowed outside of the approved viewshed. ASC (2) 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. No floats are allowed to be attached to the saltmarsh walkway. ASC (3) no refueling in the Resource Area and no secondary containment is allowed within the 100-foot buffer. Spill

containments must be kept on site at all times during construction, ASC (4) any areas of disturbed saltmarsh vegetation or a destabilization as a result of the project must be restored immediately when the work is completed, ASC (5) all work on the saltmarsh must be performed by hand, ASC (6) the ladder and the stairs at the seaward end of the structure must be removable. The ladder and the stairs must be removed from the structure between November 1st and April 1st and stored in an appropriate upland location. The lowest step of the removable stairs must be elevated a minimum of eight inches above the saltmarsh, ASC (7) construction of the elevated walkway must be performed during the non-growing season; between November 1st and April 1st.

Chm. Gray entertained a motion to move the Draft Order of Conditions to the Final Order of Conditions. **Mr. Szwed moved, Mr. Holmes seconded to move the Draft Order of Conditions to the Final Order of Conditions.** With no discussion, the motion carried. 6-0-0.

5) Applicant: 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.

(Continued to June 21, 2018)

Request to Extend Order of Conditions:

1) Applicant: Hideaway Village Condo Assoc.

File Number: SE7-1896

Representative: Peter DeFusco

749 Head of the Bay Road – off Knollview Rd & Nautical Way, Buzzards Bay

Beach nourishment, installation of fiber rolls, replacement of hay bales, and a zig-zag sand drift fence within a V Flood Zone and within 100 feet of a Wetland Resource Area.

Agent Comment – Mr. Haines stated this is a continued nourishment project. He explained that a few months ago, a representative from BSC Group came before the Commission and provided a two-year monitoring plan. They're still installing some erosion controls and core matting that was approved at that time; therefore, they're

requesting a two-year extension to continue with the nourishment under the amended Order of Conditions.

Chm. Gray asked the agent if it's his recommendation to grant the extension. Mr. Haines stated yes. Adding that the Commission will receive another nourishment report in 2020; so at that time, the Commission can decide whether they want the nourishment to continue. He doesn't see any reason to stop the nourishment until they receive the next report.

Chm. Gray entertained a motion to grant the request. **Mr. Ligor moved, Mr. Holmes seconded to grant the extension.** With no discussion, the motion carried. 6-0-0.

Request for Certificate of Compliance:

1) Applicant: Kristina Barragan
File Number: SE7-1663
Representative: Warwick & Associates, Inc.
71 Kenwood Road, Pocasset

To elevate existing dwelling and install a new pier foundation within a V A Flood Zone and within 100 feet of a Wetland Resource Area.

Materials Reviewed – Site Photographs, Aerial Photographs, and Order of Conditions.

Agent Comment – Mr. Haines passed out site photographs and aerial photographs for the Commission to review. He stated a site visit was performed on June 6, 2018 and the house appears to be in substantial compliance with the Order of Conditions; however, he did not see any permitting for the shed located on the property. Referring to the photos, he stated that Special Bylaw Condition #4 of the Order, specifically states that all accessory structures must be setback at least 50-feet from the Resource Area unless the Commission approves a lesser distance. Based on the aerials, the shed dates sometime between 2007 and 2010. The shed is on concrete blocks and is no closer to the Resource Area than the existing structure. He stated there is some history of sheds being approved without a filing because there's no excavation; but for this, he could not find a Building Permit or evidence of any coordination with the department. Mr. Haines doesn't think there's a risk to the Resource Area as it sits, but, it is an unanchored structure in an A Zone. He spoke with the building inspector who does not plan on enforcement due to the statute of limitations for a non-conforming structure.

Ms. Leduc opened a brief discussion regarding the possibility of fining property owners for violations. Mr. Haines then discussed the Commission's options.

Public Comment – The new property owner was in the audience. He stated the COC was the last document needed in order to clear the Title. He stated he did not place the shed on the property but would like to keep it if possible. After a brief discussion, it was decided to deny the Certificate of Compliance and require the new property owner to file an RDA to permit the shed legally after-the fact and proceed from there.

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

2) Applicant: Andrew Laurence

File Number: SE7-1950

Representative: Bracken Engineering, Inc.

83 Elgin Road, Pocasset

Rebuild an existing deck, enclose an area in the front of the house, replace existing retaining wall and boardwalk, and perform vegetation maintenance within a VE Flood Zone and Wetland Resource Area.

Agent Comment – Mr. Haines performed a site visit on June 5, 2018. The site appears to be in substantial compliance and he recommends issuance.

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

3) Applicant:

File Number: SE7-0190

Representative: Christopher Knoth, Esq.

35 Little Bay Lane, Buzzards Bay

Construction of a single-family home within 100 feet of a Wetland Resource Area.

Materials Reviewed – Site Photographs, Aerial Photographs, and Order of Conditions.

Agent Comment – A site visit was performed and Mr. Haines observed an unpermitted shed within the 50-foot buffer on the property. Based on the aerials, the shed dates back to at least 2001. It is located on concrete footings in an existing landscaped area. Mr.

Haines could not find a Building Permit for this structure there is no language in the Order regarding a 50-foot buffer; but, it's not an exempt structure.

A brief discussion transpired regarding zoning setbacks.

Chm. Gray entertained a motion. **Ms. Leduc seconded, Mr. Holmes seconded to deny the Certificate of Compliance.** With no discussion, the motion carried. 6-0-0.

4) Applicant:

File Number: SE7-0286

Representative: Christopher Knoth, Esq.

35 Little Bay Lane, Buzzards Bay

Construction of a recreational dock/pier.

Materials Reviewed – Site Photographs, Aerial Photographs, and Order of Conditions.

Agent Comment – Mr. Haines stated the dock has a float stored on the saltmarsh and it appears that this has been done for quite a long time.

Board Comment – Ms. Leduc asked if the saltmarsh is degraded. Mr. Haines stated it is hard to tell because the float is currently being stored on the marsh during the growing season; however, it's safe to assume that it is. He stated the size of the dock appears to be in compliance but there's an issue with the float. It's a clear violation of the Order. It's his opinion that the float will have to be removed and the saltmarsh restored if it's been adversely impacted.

After a brief discussion, **Mr. Holmes moved, Mr. Ligor seconded to deny the Certificate of Compliance until such time that the float has been removed and the saltmarsh beneath has been restored.** With no further discussion, the motion carried. 6-0-0.

5) Applicant: Calliope Davis

File Number: SE7-0454

Representative: Robert Davis

82 Lake Drive, Buzzards Bay

Tree clearing and landscaping within 100 feet of a Wetland Resource Area.

Agent Comment – A site visit was performed on June 6, 2018 and there are some issues with the buffer. Mr. Haines stated the plan attached to the filing and referred to in the Order calls for a 25-foot naturalized vegetation at a height of no less than twenty-four inches in height. The attached photo clearly shows that the buffer's been mowed and

converted to lawn. Also, a shed has been placed within the 25-foot buffer; a violation of the Order. However, this shed did have a building permit and was approved by the previous Conservation agent administratively.

Materials Reviewed – Site Photographs and Order of Conditions.

Chm. Gray suggested leaving the shed alone and work administratively with the property owner to restore the 25-foot buffer. Mr. Haines agreed since there is a Building Permit; however, access to the shed will need to be given.

Public Comment – Attorney Robert Mascali, representing the seller, addressed the Commission. He stated there is a closing scheduled for June 18th; which is very important to the seller because she is now living in assisted living with limited funds. He stated she does not recall the buffer ever having been mowed. Mr. Haines stated he is willing to work with the property owner as far as access to the shed; however, buffer planting must be performed to prevent future property owners from continuing to mow it.

After a brief discussion, Chm. Gray entertained a motion. **Mr. Ligor moved, Ms. Leduc seconded to deny the Certificate of Compliance.** With no further discussion, the motion carried. 6-0-0.

Mr. Mascali stated he will inform the buyers of what transpired and will notify Mr. Haines with the results of that conversation. Chm. Gray stated the matter is quite resolvable.

6) Applicant: Thomas Lyons

File Number: SE7-1930

Representative: Falmouth Engineering, Inc.

71 Wamsutta Ave, Bourne

Raze and reconstruct an existing dwelling and associated grading and landscaping.

Agent Comment – Mr. Haines stated this appears to be in substantial compliance and recommended issuance.

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

Other Business:

Signing of Order of Conditions for SE7-2018 John J. Flatley at 52 Pasture Rd., Cataumet. Mr. Szwed's signature was needed on the Order.

- Vote excused absent members, if necessary – **Mr. Ligor moved, Ms. Leduc seconded to excuse the absent members.** With no discussion, the motion carried. 6-0-0.

Chm. Gray briefly left the meeting at 9:25 PM. Ms. Leduc chaired the meeting.

- Acceptance of Previous Meeting Minutes – Ms. Leduc entertained a motion to approve the minutes of April 5, 2018 as revised. **Mr. Holmes moved, Mr. Szwed seconded to approve the minutes of April 5, 2018 as revised.** With no discussion, the motion carried. 5-0-0.

Chm. Gray returned to chair the meeting at 9:28 PM

- Report of the Conservation Agent – Amendment to John Ross shell fishing grant application to Division of Marine Fisheries – Mr. Haines briefly explained the request then stated Division of Marine Fisheries had no problem with the amendments. After a brief discussion, the Commission decided to require the applicant to file a Notice of Intent.

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

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

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

II. Adjournment

Mr. Ligor moved, Ms. Leduc seconded to adjourn. With no discussion, the motion carried. The meeting adjourned at 9:35 PM.

Minutes submitted by: Carol Mitchell