

Conservation Commission

Meeting Minutes

Town Hall Lower Conference Room

24 Perry Ave., Buzzards Bay, MA 02532

July 12, 2018

I. Call to order

Chm. Gray called to order the meeting of the Conservation Commission at 7:00 PM on July 12, 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, Rob Palumbo, Thomas Ligor, Susan Weston, Melvin P. Holmes and Elise Leduc.

Excused Members: Paul Szwed and Associate Member, Greg Berman.

Also Present: Sam Haines, Kris Barragan, Steve Barragan, Jack Landers Cauley, Gary LaBree, Tim Santos, Jim Mulvey, Brendan Mullaney, Chip Coen, Peter McEntee, Paul McEntee, Paul Paceli, Stan Humphries, Kelly Mastria, Rich Mastria, Steve Cook, Alexander Joyce, Amy Ball, William Russell and Beth Russell.

Request for Determination of Applicability:

1) Applicant: Lawrence Coen
File Number: CC18-20
Representative: Jack Landers Cauley
17 Scotch House Road, Pocasset

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

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

Jack Landers Cauley and Gary LaBree discussed the proposed project.
Board Comment – None.

Mr. Haines asked if they're proposing to fill the old tank and the old cesspool with sand. Mr. Landers Cauley stated yes, the tank has to be pumped and filled.

Agent Comment – Mr. Haines stated the SAS is located outside of jurisdiction, so the filing is only for the tank and the lines. The delineation of the Coastal Bank appeared accurate in the field and was based on a previously accepted plan by Warwick & Associates. The work will be performed in a relatively flat landscaped area so after a few revisions were made, he doesn't have any issues with the plans as proposed.

Board Comment – None.

Public Comment – None.

Chm. Gray entertained a motion. **Mr. Holmes moved, Mr. Ligor seconded a Negative Three Determination.** With no discussion the motion carried. 6-0-0.

2) Applicant: Glen Hapenny
File Number: CC18-21
Representative: Peter McEntee
56 Thorne Road, Gray Gables

Install a new distribution box and leaching field within an AE Flood Zone

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

(Hearing Under State Act Only)

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

Pete McEntee addressed the members and discussed the proposed project.

Board Comment – None.

Agent Comment – Mr. Haines stated the project is straightforward. The work will be performed in an existing landscaped area and he didn't identify any issues with the work.

Board Comment – None.

Public Comment – None.

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

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

3) Applicant: Sharon Murphy
File Number: CC18-22
Representative: Peter McEntee
111 Valley Bars Road, Monument Beach

To install a new distribution box and leaching field within 100 feet of a Wetland Resource Area.

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

Pete McEntee addressed the members and discussed the proposed project. He briefly discussed concerns the agent expressed regarding the jurisdictional boundary that was not shown on the original plan. That has been corrected and the Board of Health approved the location of the leaching system at their meeting that was held the night before. Mr. McEntee discussed the location of the proposed leaching system and the erosion control measures that will be utilized.

Board Comment – None.

Agent Comment – Mr. Haines stated the plan was revised after a site review. It now includes a delineation under M.G.L. c. 131, § 40 as well as the bylaw jurisdictional line using vegetation only. His only concern with the project is the presence of a drainage easement so erosion control measures should be used. The applicant agreed.

Board Comment – None.

Public Comment – None.

Mr. Palumbo entertained a motion. **Mr. Holmes moved, Ms. Weston seconded a Negative Three Determination.** With no discussion the motion carried. 5-0-0.

Chm. Gray returned to chair the meeting.

4) Applicant: Sher and David Sedgwick
File Number: CC18-23
Representative: Holmes and McGrath, Inc.
605 Scraggy Neck Road, Cataumet

To construct a driveway, install utilities and conduct landscaping within 100 feet of a bylaw jurisdictional wetland.

(Hearing Under Bylaw Only)

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

Tim Santos addressed the members. He discussed the location of the property, the Resource Areas and the proposed project.

Board Comment – None.

Agent Comment – Mr. Haines explained, the members may remember this wetland from a violation that was issued last year. It's a small vegetated wetland that's only jurisdictional under the bylaw and the line was approved under a previous RDA. He looked at this during the amphibian breeding season and it did not appear to be a vernal pool due to an insufficient hydro-period; therefore, the Commission's jurisdiction does not extend beyond 100 feet. Based on the plan, there will be no work within the 50-foot setback and the erosion controls appear to be sufficient. He did not identify any issues with the proposed work.

Board Comment – Ms. Leduc questioned the proposed location of the driveway and utilities given that the lot is vacant. Mr. Santos explained the proposed location is where the applicant would like them and the location meets the performance standards.

Public Comment – None.

Chm. Gray entertained a motion. **Mr. Holmes moved, Mr. Ligor seconded a Negative Two Determination.** With no discussion the motion carried. 6-0-0.

5) Applicant: Kristina and Stephen Barragan

File Number: CC18-24

Representative: Same

71 Kenwood Road, Pocasset

To permit both a permanent shed and fence as well as construction of a temporary shed within an AE Flood Zone and within 100 feet of Wetland Resource Area.

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

Kristina Barragan addressed the members. She explained that she and her husband just closed on the property; which has been in her family for approximately forty years. However, in order to clear the title, a Certificate of Compliance must be issued for an unpermitted shed that the former property owner installed. She provided a brief history on the ownership of the property and explained the hardship she and her husband will face if permission to keep the shed isn't granted.

Board Comment – Ms. Leduc asked for clarification as to what is being proposed under this filing. Mr. Haines explained at the June 7th hearing, the Commission denied the COC because the shed was within the 50-foot setback and he couldn't find any evidence that it was permitted. It was the Commission's decision that the shed needed to be legally permitted. The fence was permitted under a Building Permit. A brief discussion regarding the fence transpired. Mr. Haines stated that a request for a COC is on the agenda later in the evening.

Mr. Palumbo questioned the proposed location of the temporary shed. Steve Barragan stated they currently own a temporary shed that he'd like to erect while work on the interior of the house is being performed. He explained that there is space next to the permanent shed for the temporary shed. Adding, the temporary shed is strictly for convenience and he's willing to forego the installation of the temporary shed if necessary.

Agent Comment – Mr. Haines stated based on aerial photographs, the permanent shed's been in place since 2007/2008. This filing is to permit the shed and the fence. He doesn't feel that the temporary shed needs a permit.

Board Comment – Ms. Weston noted behind the shed is well vegetated. Mr. Haines agreed, stating there's a line of historic fill and just over the edge, there's a Coastal Bank which falls down to saltmarsh. The fence is located at the top of the bank within the buffer.

Public Comment – None.

Chm. Gray entertained a motion. **Mr. Palumbo moved, Mr. Holmes seconded a Negative Two Determination.** With no discussion the motion carried. 6-0-0.

Chm. Gray explained the Negative Determination to the applicant.

Chm. Gray changed the order of the agenda.

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.

Agent Comment – Mr. Haines stated now that the shed and fence have been legally permitted, he recommends issuing the Certificate of Compliance.

Board Comment – None.

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

Notice of Intent

- 1) Applicant: Richard and Kelly Mastria
File Number: SE7-2024
Representative: Bracken Engineering, Inc.
45 Wianno Road, Mashnee Island

To raze and reconstruct an existing single-family dwelling and install a new Title 5 septic system; including landscaping, grading, utilities and appurtenances within a V Flood Zone and within 100 feet of a Wetland Resource Area.

Materials Reviewed – Site Photographs, Site Plan of Record, Mass GIS Aerials, Plan from SE7-1827 Filing, and DEP Wetlands Change Mapping.

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

Brendan Mullaney addressed the board. He discussed the Resource Areas and the proposed project. He stated the agent had a different interpretation of the previously delineated Coastal Bank so he placed an overlay of the Mass GIS shape file on the plan which delineates the Coastal Dune. Mr. Mullaney stated the proposed dwelling will be 10 feet further from the Resource Area than where it currently exists. Mr. Mullaney discussed the presence of a Coastal Bank at the front of the property which is not noted on the plan. He offered to revise the plan to reflect the bank if the Commission requires it. He briefly discussed the ground water levels which influenced the septic system design, the property setbacks and the design of the proposed dwelling.

Board Comment – Ms. Leduc opened a brief discussion regarding the existing dwelling’s square footage. Mr. Haines stated he received the nitrogen calculation which is just about even from existing to proposed.

Mr. Haines questioned whether the driveway is proposed to be paved. Mr. Mullaney stated yes, it’s proposed to be paved.

Agent Comment – Mr. Haines stated the delineation review is difficult because the Resource Areas are off-site. The plan shows the primary Coastal Bank was delineated and approved under SE7-1827. It is his opinion that this delineation of the Resource Area is incorrect and that the area shown seaward of the secondary Coastal Bank is actually Coastal Dune. Because the delineation is over three years old, the Commission is not held to that delineation. He asked Bracken to either produce evidence that it wasn’t a Coastal Dune and only a Coastal Bank existed or add the Mass GIS line; which is what the representative did. Mr. Haines noted that the plan shows septic setbacks to the primary Coastal Bank that he doesn’t believe exist. Mr. Haines discussed the potential of flooding occurring from different directions and the importance of having an accurately delineated plan. As for the actual construction, Mr. Haines expressed concern from a FEMA prospective which he’ll discuss with the building inspector. Lastly, Mr. Haines discussed the positives of the proposed work over what’s existing.

Board Comment – Ms. Weston opened a brief discussion regarding the location of the Coastal Bank. Ms. Weston agreed that the plan should be accurate. Mr. Mullaney stated he's willing to revise the plan. A discussion ensued.

Ms. Weston discussed the impervious driveway.

Public Comment – None.

After a brief discussion, the Commission decided to condition the Order requiring that a revised plan be submitted showing all jurisdictional Resource Areas under 92-1. Mr. Mullaney stated a revised plan will be submitted to the agent the following morning. **Mr. Holmes moved, Ms. Leduc seconded to close the public hearing with the Condition previously stated.** With no further 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, 2, 3, 4, 5, 7, 9, 10, 11, 12, 14, 15, 16, 18, 19, 21, 22, 27, 28, 29 Special Conditions pursuant to the Bourne Wetlands Protection Bylaw Article 3.7 numbers; 2, 5, 6, 7, 8, 9, and Additional Special Condition (1) a revised plan showing all jurisdictional Resource Areas under DEP Policy 92-1 shall be submitted to the department prior to this Order becoming valid.

Mr. Palumbo 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. 5-0-0

Chm. Gray returned to chair the meeting.

2) 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 from June 28, 2018)

Materials Reviewed – Site Photographs, Revised Site Plan dated 7/3/18, Post Construction Site Plan dated 7/12/18, Wetlands Resource Area Analysis Report & Proposed Buffer Zone Enhancement and Mitigation Planting Plan from LEC dated May 30, 2018, Letters of Support from Kathy & Paul Alfano, Michael & Kathy Hallum and Curt & Judy Dwayne, Certification

from structural engineer regarding the pool meeting Flood Zone standards, Architectural Drawings dated 5/30/2018, July 12, 2018 Letter from Amy M. Ball of Horsley Witten Group, July 12, 2018 Letter from J.C. Engineering, Inc., July 12, 2018 letter from Ingrid Hammond & Jeff Lau, Wetland Program Policy 86-1, FEMA Technical Bulletin 5, Free of Obstruction Requirements, August 2008.

Jack Landers Cauley along with Beth Russell, the property owner, addressed the members. Mrs. Russell clarified that she and her husband, William, are the property owners. Steve Cook, the designer, simply filed the application. Chm. Gray asked the property owners if they've allowed Steve Cook to file the application on their behalf. Mrs. Russell indicated they have. Mr. Landers Cauley introduced the Russells, Steve Cook, Stan Humphries and Christopher Kirrane. Mr. Landers Cauley explained the project was submitted at the end of last year and the beginning of this year. On May 10th the applicant submitted substantially revised plans which are currently before the members. He stated the architectural plans have been stamped by a structural engineer which certifies the proposed structure has been designed in accordance with the FEMA regulations for a residence in a Velocity Zone. Mr. Landers Cauley then discussed the changes made to the project since May 10th.

Stan Humphries the coastal geologist provided additional information regarding the Resource Areas, the proposed swimming pool and the planting plan.

Board Comment – Ms. Leduc asked why the proposed in-ground pool has been changed to an above-ground pool. Mr. Landers Cauley stated they were trying to respond to the concerns of the neighbors. A discussion transpired regarding the design of the pool.

Ms. Leduc sought clarification of the proposed planting location, the limit of work and the proposed dinghy rack. A discussion ensued.

Agent Comment – Mr. Haines stated a lot has changed since the last filing. He discussed the updated materials that have been submitted which include; Revised Site Plan dated 7/3/18, Wetlands Resource Report, Revised Mitigation Planting Plan from LEC dated May 30, 2018, Letters of Support from Kathy & Paul Alfano, Michael and Kathy Hallum and Curt and Judy Dwayne, Certification from a structural engineer regarding the pool meeting Flood Zone standards and Architectural Drawings.

Mr. Haines discussed issues from the previous meeting that needed to be addressed. He explained the accuracy of the Resource Area delineation was in question. LEC has submitted a Wetland Resource Area report and a revised site plan was submitted that now appears to reflect observed conditions in the field. Next, Mr. Haines discussed concerns over the proposed dinghy rack and the removal of the stairs and ramp attached to the

seawall. There is a potential dispute over who owns the land between MHW and the seawall. After a brief explanation, Mr. Haines suggested the Commission not take any action on the dinghy rack/stairs/ramp and let ZBA and Engineering deal with any clouded title issues. Chm. Gray asked if based on the preliminary review, he is inferring that the land south of the stone wall is off the subject parcel and may be on Town land. Mr. Haines stated that is correct. Mr. Haines explained that the boundary limit was set to Mean High Water in a 1923 survey. The problem is, since then, there has been nourishment of that beach from dredge, so Mean High Water has since moved. After a brief discussion, Mr. Haines suggested conditioning the Order to state the Order does not allow for the removal of the existing slab, placement of the proposed dinghy rack or work to be performed seaward of the existing seawall. The proposed dinghy rack is allowed landward of the proposed mitigation area.

Another concern was the final configuration of the mitigation planting. LEC provided a mitigation planting plan which Mr. Haines feels reflects the previous comments from Commission members.

The pool and its design was within a Velocity Zone was another issue. This has been addressed in both the LEC report as well as the certification by the structural engineer. The Commission will have to determine whether this is sufficient for the bylaw language. Mr. Haines stated there are some concerns regarding FEMA guidelines but that is not the focus of this Commission.

Board Comment – None.

Public Comment – On behalf of the abutters, Jeff Lau and Ingrid Hammond, Attorney Alexander Joyce and Amy Ball of Horsley Witten Group, addressed the members. Mr. Joyce stated he will be submitting material for the record and Ms. Ball will make a brief presentation. Attorney Kirrane objected to any additional material being filed on the date of the meeting. He argued that the applicant's project was filed May 30, 2018, giving plenty of time for any filings. He argued that material being filed on the night of the hearing will not provide sufficient time to review them. He doesn't feel the Commission should accept the material because there are guidelines requiring material be submitted the Friday prior to the hearing. Chm Gray asked Attorney Joyce why the material wasn't filed a week ago. Attorney Joyce argued that as an abutter, there are no written guidelines, policies, rules or regulations that prohibit him from giving testimony that evening or filing material he deems appropriate to protect his clients' rights pertaining to this case. Attorney Kirrane argued that the Commission's policy that material must be submitted the Friday prior pertains to all parties. Chm. Gray stated both counselors' arguments will be reflected in the record and Amy Ball if she'd like to proceed.

Amy Ball addressed the members. She discussed additional information about the proposed project that the Commission required during the original hearing that was held in April. She feels that even with the additional information provided by the applicant, the Commission does not have enough details to move forward. With regard to the placement of the dinghy rack in the dune, notwithstanding any property ownership dispute, she stated even though the removal of the concrete pad is commendable; adding a new structure that increases activity in the Resource Area is inappropriate. She also pointed out that the area below the proposed dinghy rack is supposed to be revegetated naturally; however, there is a note on the revised plan contradicting that. She explained that one of the proposed species listed on the revised plan is an invasive species and strongly recommends against that. Ms. Russell interjected stating they aren't proposing to plant anything in that area. Ms. Ball contended that the revised plan states differently. Additionally, Ms. Ball feels the proposed mitigation planting along the buffer zone could be considerably better and thinks the proposed 8-foot wide path to the stairs is too wide; inviting more activity in the Resource Area. Ms. Ball stated it is their position that the proposed pool does not meet FEMA regulations. She asked the Commission to do all they can to ensure the project meets all building and FEMA codes to prevent additional storm damage. Adding that the Commission's regulations are specific about having projects designed in a manner that ensures the prevention of damage to the Wetland Resource Areas and abutting properties. She doesn't feel the applicant has demonstrated that to the Commission at this point. Ms. Ball indicated that a definitive plan on how the pool water will be managed has yet to be submitted.

Board Comment – Mr. Holmes discussed the height of the proposed pool.

Ms. Leduc noted that the plan does state that plantings will be placed where the platform is removed. She asked that the Order be conditioned that no invasive species will be planted in that area once the land ownership issue has been addressed. Mr. Haines advised that Condition #26 states all vegetation must be predominantly native and non-invasive. All plants must be allowed to grow to maturity before pruning. All plants will be monitored a minimum of two growing seasons and any plants that do not survive must be replaced. Ms. Leduc indicated she would like the Order to specifically state no Multiflora rose is allowed.

Mr. Ligor asked if there is a plan for the treatment of the pool. Mr. Landers Cauley stated the applicants have not chosen a treatment method yet but have discussed various options with a pool care professional.

Mr. Ligor asked where the pool filter and pump will be located. The representative stated it will be located on the deck. Mr. Ligor discussed two different filtering options; both

require a backwash. He asked where the effluent will be discharged. Mr. Haines interjected stating he has an additional recommendation that no chlorinated pool water shall be discharged into the Wetland Resource Area or its 100-foot buffer. All mechanical equipment related to the pool must be elevated above the Base Flood Elevation. Chm. Gray asked for clarification on the language of the condition because technically, the entire site is in a Resource Area. After a brief discussion, Mr. Haines revised the condition to state; discharge of chlorinated water must meet the standards of M.G.L. c. 131, § 40 and Board of Health regulations. The mechanical equipment will fall under the building inspector, electrical inspector and the BOH's purview.

Ms. Weston questioned past precedent with disallowing the square footage of a dwelling to increase when a raze and reconstruct is being proposed. Chm. Gray stated that is outside of the Commission's purview. She questioned whether that was something the Commission prevented in the past. Chm. Gray stated it may have tried; however, the Commission has no authority to enforce zoning.

Chm. Gray asked Ms. Ball to point out from her report where any aspects of this project is not complying with a performance standard of M.G.L. c. 131, § 40. Ms. Ball replied it is the applicant who has the burden to demonstrate that this project will not have any adverse effects on the Coastal Resource Areas. Chm. Gray stated construction is allowed in Coastal Dunes, Coastal Banks, Coastal Beaches etc. and asked again where in her report does she address a performance standard that this project does not comply with. Ms. Ball again voiced concerns about the proposed pool and potential adverse impacts to the Resource Areas. Chm. Gray asked Ms. Ball to answer with a yes or a no as to whether or not the project as designed is in conformance with performance standards for these Resource Areas. Ms. Ball stated it is not her burden to show that. Chm. Gray stated all of the proposed work is being performed outside of the Resource Areas and is located within a Coastal Flood Zone. Ms. Ball reiterated her position that the buffer zone mitigation could be increased and would like the Commission to consider this. Chm. Gray stated the buffer zone will be addressed momentarily.

Chm. Gray asked if there is anything in the Wetlands Protect Act dealing with this Coastal Flood Zone that would allow the Commission to deny this project. Ms. Ball stated there is not. Chm. Gray asked if there is anything under the Wetlands Protection Act that specifically sets a performance standard for the buffer zone. Ms. Ball stated there is not. Chm. Gray explained despite some of the concerns that have been raised, the project as it's proposed, seems to comply with all aspects of the Wetlands Protection Act relating to performance standards. Chm. Gray said there are no performance standards for buffer zones and there are no written performance standards for the Velocity Flood Zone. Many of the issues that the representative raised on behalf of the abutters, deal with the

State Building Code and FEMA regulations. As far as requiring the applicant to extend the buffer zone, Chm. Gray stated he doesn't feel DEP will support that in a superseding Order. A discussion ensued.

Attorney Joyce addressed the members. He summarized a statement prepared by his clients, Jeff Lau and Ingrid Hammond. The statement provided information regarding the proposed project's intrusion into the buffer area and an analysis of the number of waterfront properties that are located in the town of Bourne. Additionally, Attorney Joyce discussed correspondence he received from an engineer who reviewed the design of the proposed pool. He suggested the Commission require the applicant to hire a consultant to perform of peer analysis of the pool's functionality during a coastal storm event. Attorney Joyce stated the house will be elevated eleven feet. He questioned how far the concrete piers will be driven into the subsoil and what will happen if they hit ground water. The project designer, Steve Cook, discussed the ground water level and the grade/elevation under the proposed house. He stated they do not expect to hit ground water during the installation.

Chm. Gray asked Attorney Joyce if in either of the two documents he submitted, there is any indication that the project is in non-compliance with the performance standards under M.G.L. c. 131, § 40. Attorney Joyce cited section 10.57 of the regulations. Chm. Gray stated 10.57 does not apply. Mr. Haines said there are no performance standards for Coastal Flood Zones. He discussed the need as a town to meet FEMA requirements as Bourne is a FEMA community; however, FEMA and M.G.L. c. 131, § 40, are different regulatory standards. Attorney Joyce stated the local bylaw applies to this project and suggested the Commission strictly enforce it and require the applicant to move the house back. Chm. Gray repeated his initial question to the attorney. Attorney Joyce stated he thinks the pool is not compliant with the performance standards under coastal storm flowage in a Velocity Zone. Chm. Gray argued that there are no performance standards; stating the Commission can't enforce what isn't written. A discussion ensued.

In closing, Mr. Landers Cauley discussed the 4:1 planting mitigation they are proposing to compensate for intrusion into the buffer zone. He also discussed the proposed septic system that his clients are voluntarily installing. The system he says, will offer greater denitrification, better groundwater protection and groundwater quality.

Additional Board Comment – None.

Additional Public Comment – None.

Chm. Gray entertained a motion to close the public hearing. **Mr. Palumbo moved, Mr. Ligor seconded to close the public hearing.** Ms. Leduc reiterated the additional Special

Conditions to be addressed in the Order of Conditions. After a brief discussion, the motion carried. 6-0-0.

Chm. Gray asked the agent if he prepared a draft Order. Mr. Haines stated he prepared an approved draft Order. If the Commission wants to deny the project, he will need to prepare that argument for the reasons of denial. He provided blank copies of the Order of Conditions for audience members to follow along while he read the draft.

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, 21, 24, 25, 26, 27, 28, 29, Special Conditions pursuant to the Bourne Wetlands Protection Bylaw Article 3.7 numbers; 3, 4, 5, 6, 7, 9, and Additional Special Conditions; ASC (1) discharge of chlorinated water must meet the standards of M.G.L. c. 131, § 40 and Board of Health regulations. All mechanical equipment related to the pool must be elevated above the Base Flood Elevation, ASC (2) the naturalized vegetation mitigation area as show on the proposed buffer zone enhancement and mitigation planting plan prepared by LEC must consist of native plantings and shall remain in place in perpetuity. All plants must be allowed to grow to maturity before pruning to a minimum height of three feet. All plantings will be monitored for a minimum of two growing seasons and any plants that do not survive must be replaced, ASC (3) this Order does not allow for the removal of the existing slab and placement of the proposed dinghy rack or work to be performed seaward of the existing seawall. The dinghy rack shall be allowed landward of the proposed mitigation area, ASC (4) no invasive Multiflora rose is allowed to be planted under this Order.

Mr. Palumbo questioned whether the applicant will be allowed to perform work seaward on their property once the property line dispute has been resolved. Chm. Gray stated the applicant may request to amend the Order of Conditions if need be.

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

Request for Certificate of Compliance:

2) Applicant: Donna Riva

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.

Agent Comment – Mr. Haines stated the shed that was placed on the property without a permit has been removed from the property. So, he recommends issuance of the certificate.

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

3) Applicant: Donna Riva

File Number: SE7-0286

Representative: Christopher Knoth Esq.

35 Little Bay Lane, Buzzards Bay

Construction of a recreational dock/pier.

Agent Comment – Mr. Haines stated a site inspection was performed, He asked the representative to speak on the matter. Brendan Mullaney addressed the members. He explained that his firm, Bracken Engineering, was retained by Ms. Riva to try to resolve the two COC issues. They were going to file an RDA for the shed but the property owner decided to remove the structure so that resolved that issue.

Mr. Mullaney submitted site photographs taken on June 26, 2018 that show the float in the water at the end of the dock. He explained the float had been stored on the saltmarsh but has been removed. He measured the area and documented the vegetation in the area where the float had been stored and plans to restore approximately 200 square feet of marsh that had been damaged by the float being stored on it. He discussed the restoration plan and upon completion, will supply new photographs and a summary of what was installed to the agent. In order to preserve the pending sale of the property, he respectfully asked that the COC be granted that evening, stating that if the matter can't be resolved, the potential buyer will walk away from the purchase.

Board Comment – Ms. Leduc questioned who will be responsible for the replanting of any of the vegetation that doesn't survive once the property is sold. Mr. Mullaney stated the area is already revegetating. He thinks since the float has been removed, if left alone, the entire area will revegetate on its own. However, he thinks by adding plugs to the area, the recovery time will be shortened. He has found a nursery who has the species he needs.

Agent Comment – Mr. Haines stated Mr. Mullaney has worked diligently with the existing property owner to resolve this issue prior to the closing. He agreed with the representative that the sale of the property will be jeopardized if the matter isn't resolved that evening. Mr. Haines stated based on the representative's presentation, if the Commission is comfortable issuing the COC, he is comfortable with it as well.

Board Comment – Mr. Palumbo stated based on the Commission's prior working relationship with Mr. Mullaney, he feels comfortable that the work will be completed as proposed. Mr. Ligor agreed.

Chm. Gray asked if it's Mr. Haines's recommendation to grant the Certificate of Compliance. Mr. Haines stated he doesn't want to make a habit of it, but in this case, they are trying to resolve the matter every way they can.

Mr. Palumbo moved, Mr. Holmes seconded to grant the Certificate of Compliance. With no further discussion, the motion carried. 6-0-0.

4) Applicant: Calliope Davis
File Number: SE7-0454
Representative: Robert Davis
82 Lake Drive, Bourne

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

Agent Comment – A site inspection was performed and the 25-foot buffer has been replanted with native vegetation; therefore, he recommends issuance.

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

5) Applicant: BSS Design, Inc.
File Number: SE7-1977
Representative: Same
41 Salt Marsh Lane, Pocasset

To raze and reconstruct a single-family home.

Agent Comment – A site inspection was performed. Mr. Haines stated the site isn't stabilized and a driveway has not been installed. He stated he has photographs if the members would like to see that work is still needed. He has already verbally contacted the applicant to discuss the matter.

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

6) Applicant: Francis E, Ciarfella
File Number: SE7-1022
Representative: Same
18 Nye Lane, Buzzards Bay

To license an existing dock, ramp and float and to remove several concrete posts by hand within the V Flood Zone and within a Wetland Resource Area.

Agent Comment – A site inspection was performed. The applicant has a recorded Chapter 91 License at this time and the dock appears to be in compliance.

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 further discussion, the motion carried. 6-0-0.

Other Business:

- 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.

- Acceptance of Previous Meeting Minutes – Chm Gray entertained a motion to approve the minutes of the April 19, 2018 meeting. Mr. Haines noted revisions. **Ms. Leduc moved, Mr. Ligor seconded to approve the minutes of the April 19, 2018 meeting as revised.** With no discussion, the motion carried. 6-0-0.

Approval of the minutes of the May 17, 2018 meeting – Mr. Haines noted revisions. Chm Gray entertained a motion to approve the minutes of the May 17, 2018 meeting. **Ms. Leduc moved, Mr. Holmes seconded to approve the minutes of the May 17, 2018 meeting as revised.** With no discussion, the motion carried. 6-0-0

- Report of the Conservation Agent – None.

- Public Comment Period on Non-Agenda Items – Chm. Gray stated he provided Mr. Haines with language for revisions to the Wetland bylaw language for storm water prevention.

Mr. Ligor indicated he will not be in attendance at the next meeting. Ms. Weston and Mr. Holmes stated they will not be in attendance either. Due to a lack of quorum, it was decided to schedule the next meeting on August 2, 2018.

- 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, Mr. Palumbo seconded to adjourn. With no discussion, the motion carried. 6-0-0. The meeting adjourned at 9:47 PM.

Minutes submitted by: Carol Mitchell