

**Bourne Conservation Commission  
Public Meeting Minutes  
October 5, 2023**

*Note this meeting is being audio recorded by Bourne Conservation Department. If anyone in the audience is also recording or videotaping, they need to acknowledge such at this time.*

**Commission Members Present:** Vice Chair Rob Palumbo (remote), Joseph Soares, Jr., Sarah Butler, Melvin Peter Holmes, Greg Berman (Acting Chair), and Paul Szwed.

**Excused Members:** Chm. Bob Gray and Susan Weston.

**Professional Staff in Attendance:** Amalia Amado, Conservation Department.

Acting Chair Greg Berman called to order the meeting of the Conservation Commission at 6:30 PM, conducted in person on Thursday, October 5<sup>th</sup>, 2023, and held in the Bourne Veterans Community Building, 239 Main Street, Buzzards Bay, MA 02532, and held virtually by Zoom. Acting Chair Berman explained all reviews, unless otherwise stated, are joint reviews. Applications will be processed pursuant to the Massachusetts Wetland Protection Act, M.G.L. Chapter 131, Section 40, and pursuant to Article 3.7 of the Town of Bourne Wetlands Protection Bylaw. Acting Chair Berman said that they follow a 5-5-5 rule, and he explained the rule. Acting Chair Berman said that if a member of the public wishes to comment they will first clearly state their full name for the record. Acting Chair Berman asked if anyone was recording at this time other than the Conservation Department.

**REQUEST FOR DETERMINATION**

- 1.) **Request for Determination File Number: CC-23-19, 18 Windsor Road, Cataumet, John LoMedico.** Post-facto filing of an upgrade to an existing boathouse. This project is located in a VE flood zone and within coastal wetland resource areas. **Continued from 9/07/2023.**

Mr. LoMedico explained the upgrade needed for the boathouse. He said that Conservation Agent Stevie Fitch was concerned about a post, and they talked about how to remedy the issue. He said that he needed to get some proposals because of that conversation. He said that he asked both companies from which he received quotes about how to restore the wetland from that southwest post out to the grass next to the public boat ramp. Mr. LoMedico explained the quotes that he received. He said he has not decided on which company to go with yet.

Amalia Amado read the recap from the notes of Ms. Fitch: *“Remember, this is an after the fact filing for the rebuilding of a boat house. At the last hearing, we asked about a Chapter 91 license and if the applicant would consider deck improvements that allow more light penetration. Mr. LoMedico has submitted his Ch. 91 license.*

*We also asked that he work with a restoration company to address the eroding marsh in front of the boathouse. He was asked to return with quotes from firms and a plan for future NOI submission for salt marsh restoration and removal of the stones.*

*He shared two proposals with me on Friday, 9/1. Both seemed to meet that the Commission was looking for in terms of mitigation. Once he chooses who to work with, I recommend we*

*issue a determination for the RDA and schedule a follow-up in six months to ensure the NOI has been submitted. Continued from 9/07/2023.*

Ms. Amado said that Chuck Katuska, the Interim Conservation Agent, was able to review the Wilkinson proposal and he said that the means and methods identified under “2024 Cobble Reinforced Marsh with Fiber Roll” for establishment/restoration of salt marsh appear to represent a well-conceived strategy utilizing state-of-the-art construction and stabilization techniques.

Mr. Katuska also said that the language proposing “Installation of 45 one-to-three-gallon shrubs into buffer gaps” is an acceptable planting specification. With proper installation, a modest program of post-construction monitoring and adaptive management. He also said that in his opinion the proposed services are likely to result in the restoration and/or establishment of a stable salt marsh border and enhanced buffer zone values and please note that the Wilkinson proposal also recognizes the site is exposed to “natural forces and severe weather events” and that the remedial actions and improvements proposed at this site, once installed, are generally beyond control.

There was some discussion about the map of the area and about the new plantings which will be the same grasses.

There was no public comment.

Motion to close the RDA by Mr. Holmes and seconded by Mr. Szwed. Roll Call Vote: Mr. Szwed - yes, Mr. Holmes – yes, Ms. Butler - yes, Vice Chr. Palumbo - yes, and Acting Chair Berman - yes, **Motion Carried. 5-0-0**

This is being closed under a negative 2 with conditions. Acting Chair Berman explained that this will be closing out the RDA, and there will be conditions at the next meeting. He said that most likely one of the conditions will be that the NOI (Notice of Intent) will go forward, and the applicant would submit the NOI.

## **NOTICE OF INTENT**

- 1.) **Notice of Intent: DEP File Number: SE7-2258, Parking lot off 0 Sagamore Road, Sagamore Beach, Town of Bourne c/o BSC Group, Inc.** The proposed project at the site involves upgrading the parking lot and the stormwater management system, as well as repairing the existing emergency access ramp, walkover stairway, and beach nourishment. The project is located on or within 100 ft. of coastal wetland resource areas and in a V flood zone. **Continued from 9/21/2023.**

This site is located within an Estimated Habitat of Rare Wetland Wildlife and, by letter referenced above, MANHESP requires that any Order of Conditions issued by the Commission approving the project include a list of 7 specific special conditions provided by NHESP. The required special conditions are appended to the Program’s letter and are not restated here. SEE LIST ATTACHED TO NHESP.

Hannah Raditz of BSC Group said that this project had been continued while they waited for their determination back from National Heritage, which they have received, with a list of



conditions. She said that the Commission was given the list of conditions about a week ago, and she went over some of the conditions.

Acting Chair Berman asked Ms. Raditz to give a brief overview of the project. She said that this parking lot will be regraded and re-paved and have a Cultec infiltration recharge system installed beneath the parking lot. It will also involve the installation of two additional catch basins and the repair of the emergency ramp which includes the extension of the ramp by 10 x13 feet, which will allow for a steadier transition on to the beach and will be able to stand the velocity zone which this end of the ramp is exposed to. Beach nourishment is proposed in the northeast corner by the stairs. There is a small addition to impervious area of about 76 square feet that is within the parking lot and the edge of the ramp. A significant amount of the old parking lot will be removed to be replaced with approximately 230 square feet of beach grass that will be along the edge of the parking lot. There will be measures put in place while work is underway and will be inspected by Conservation before it begins.

Ms. Amado said that Mr. Katuska said that the project is designed to maintain the number of available public parking spaces at this location, and install substantial underground stormwater infiltration system, install additional public amenities, shorten, and stabilize the existing beach access stairway, and repave and improve the existing emergency access ramp to Sagamore Beach. He also said that National Heritage requires that any Order of Conditions be issued and the Commission approving the project must include a list of the 7 specific Special Conditions provided by National Heritage.

Acting Chair Berman asked about the possibility of concrete that might undermine or not collapse as easily. Tim Lydon, Town Engineering, said that their idea going into this was to make it with little maintenance as possible. He said that in the future when the Town of Bourne Engineering Department brings a project before the Conservation Commission, they will be more considerate towards maintenance. He said that at this time he didn't want it to be a hang up because of the maintenance environment right now. He said that this is the first project being paid for out of the Climate Resiliency and Infrastructure Fund, and they are trying to make investments into infrastructure that can last a long time. He said that they did weigh the pros and cons, and they felt that it was best at this time to have a more permanent structure with the slab.

Acting Chair Berman also asked about the removable bollard. Mr. Lydon said that the Fire Department is familiar with the bollard, and they liked it because they feel that it is easy for one man to remove.

Motion to close by Mr. Holmes and seconded by Ms. Butler. Roll Call Vote: Mr. Szwed - yes, Mr. Holmes - yes, Ms. Butler - yes, Vice Chr. Palumbo - yes, and Acting Chair Berman - yes, **Motion Carried. 5-0-0.**

**Continued to finalize special conditions.**

- 2.) **Notice of Intent: DEP File Number: SE7-2257, Parking lot off 280 Standish Road, Sagamore Beach, Town of Bourne c/o BSC Group, Inc.** The proposed project at the site involves upgrading the parking lot and its stormwater management system, as well as repairing the existing emergency access ramp, walkover stairway, and beach nourishment. The project

is located on or within 100 ft. of coastal wetland resource areas and in a V flood zone.  
**Continued from 9/21/2023.**

This site is located within an Estimated Habitat of Rare Wetland Wildlife and, by letter referenced above, MANHESP requires that any Order of Conditions issued by the Commission approving the project include a list of 7 specific special conditions provided by NHESP. The required special conditions are appended to the Program's letter and are not restated here. SEE LIST ATTACHED TO NHESP.

Hannah Raditz of BSC Group said that this project is slightly like the previous project. The difference is that the re-grading of the parking lot will add four parking spaces. This area calls for more beach grass around the parking lot also. There will be some repairs to the stairs. She said that this parking lot will be regraded and re-paved and have a Cultec infiltration recharge system installed beneath the parking lot. There will be two new catch basins to replace the existing ones. She said that there is no new impervious increase, it's 560 square feet of pavement removal to be planted with beach grass. The site will be toured with Conservation before work begins. The catch basins will be protected throughout the project. She said the conditions are the same as the previous project.

Ms. Amado said that Mr. Katuska said that there is an increase in the number of available parking spaces at this location and the same set of conditions will be required.

Motion to close by Mr. Holmes and seconded by Ms. Butler. Roll Call Vote: Mr. Szwed - yes, Mr. Holmes - yes, Ms. Butler - yes, Vice Chr. Palumbo - yes, and Acting Chair Berman - yes,  
**Motion Carried. 5-0-0.**

**Continued to finalize special conditions.**

- 3.) **Notice of Intent: DEP File Number: SE7-2262, 52 North Beach Avenue, Bourne, Peter Perroni & Mavis Robinson c/o Goddard Consulting** To construct a two-story addition with a farmer's porch within 100' of a wetland resource area and in an AE flood zone.

Tom Schutz of Goddard Consulting said he is there on behalf of the applicants. He showed the existing conditions plan for the site. He said that the resource areas include salt marsh and land under salt pond. He also showed a proposed site plan and explained. He said that the applicants are proposing a 500 square ft. addition and porch onto the existing single-family house. He said most of it is out of the 50-foot buffer zone.

Ms. Amado said that Mr. Katuska said in his report "The stone trench drain proposed at the end of the regraded and repaved driveway appears to be designed and located to infiltrate stormwater runoff from the regraded and repaved driveway. Although adherence to the MA Stormwater Standards is not required for this single-family house project, the Commission should evaluate the possibility of discharging some or all rooftop runoff from the proposed addition into this stone trench drain. The Existing Conditions Plan submitted does not show the wooden kayak storage rack located onsite. Said storage rack is located along the site's northern property line, just upgradient of the salt marsh between salt marsh boundary flags SM7 and SM8. In addition to the use by the property owners, this storage rack appears to support informal public access to Eel Pond across the property to the north. The Commission



may wish to investigate the situation further to determine if the additional permitting is necessary to formalize to control this access to Eel Pond.”

Mr. Schutz said that the trench drain was designed to mitigate the new impervious surfaces that are going to be proposed. He said that because the project is built the majority in impervious surface already, this drain is going to be sufficient for what they are going to do.

Mr. Schutz said that regarding the kayak rack, they built it for the neighborhood so they could have access to Eel Pond easier. It is also so that kayaks are not dragged through the 25 ft. no disturb buffer zone.

There was some discussion about the kayak rack and who it benefits.

There was no public comment.

Motion to approve and close by Ms. Butler and seconded by Mr. Holmes. Roll Call Vote: Mr. Szwed - yes, Mr. Holmes – yes, Ms. Butler - yes, Vice Chr. Palumbo - yes, and Acting Chair Berman - yes, **Motion Carried. 5-0-0.**

Ms. Amado said that this will continue to the next agenda within 14 days so the Order of Conditions will be issued in 21 days. Mr. Schutz asked that the Special Conditions be sent to him prior.

- 4.) **Notice of Intent: DEP File Number: SE7-2261, 12 Scotch House Cove Road, Cataumet, Robert Denormandie c/o Falmouth Engineering, Inc.** To construct a driveway, including minor regrading and shaping of the landform, installation of a crushed stone base and creation of two small drainage depressions. The work will take place in an AE flood zone, V flood zone and within 100 ft. of wetland resource area.

Michael Borselli, Falmouth Engineering, explained that the property is just over 2 acres of land as he showed the property plan. He said that the wetland resources are within 100 ft. of the proposed activities include a salt marsh, and a coastal bank that is sloping. The owner and the abutter have had conversations, and the abutter has asked his client to consider access over his land. He said that Mr. Normandie thought it would be better to have full control over his access and he was willing to proceed with an application in hopes that the Conservation Commission would approve a separate proposed 10-foot-wide driveway across his land. He then explained the whole proposed project.

Amalia read aloud a few points from Mr. Katuska’s report:

“Appropriate erosion control barrier in the location of the plan’s one “Limit of work” line to protect down gradient resource areas and requiring the plan to be revised to show limit of work line constraining clearing to the minimum required to perform the work proposed.”

Mr. Borselli said that they had proposed a limit of work on the side facing the salt marsh and he said they are providing more than 50 feet buffer of the salt marsh. He said that he can provide a revised plan that shows this if the Commission wants it.

Ms. Amado continued to read aloud Mr. Katuska’ report:

Tree removals not associated with driveway construction (“Oaks snapped at top”) are questionable. For example, while the “24” Snapped Oak” located approximately 10 feet from BVW boundary flag #2 has only 1 of 3 main top branches broken and the 2 remaining leaders appear healthy, the “24” Snapped Oak” located 10 feet up gradient from this tree, which has a truly snapped-off trunk, is not proposed to be removed. Additionally, the 20” Snapped Oak at the northern end of the proposed driveway, also proposed to be removed, has one snapped branch.”

Mr. Borselli said that he and Ms. Fitch have discussed trees on the property, and he said that it is not pertinent to the application and probably warrants further review on a site visit, and he would like to remove that part from the application. He said that if they want to revisit that then they should go back for an amendment.

Ms. Amado read aloud a little more from Mr. Katuska’s report: “that another thing to consider is establishing a limited “corridor”, perhaps 20’ in total width (5’ each side), within which all-natural vegetation adjacent to the completed driveway may be kept clear of vegetation or, at the owner’s option, planted with native plant species, without further Commission review or permitting. Also, consider inquiring of the applicant as to any surface treatment of the existing driveway circle to be accessed at the north end of the proposed new driveway. I believe it possible that, after constructing a new gravel driveway from the street to this circle, the applicant may wish to add gravel to widen the existing turnaround and/or to match the newly deposited material. The addition of gravel to the existing turnaround does not, in my opinion, pose any threat of additional impact but full consideration of work likely to be performed at this site is warranted under this NOI.”

Mr. Borselli said that there have not been any conversations or plans to do what Mr. Katuska is asking regarding the driveway. There was more discussion about the driveway and turnaround.

There was no public comment.

Waiting on revised plans from Falmouth Engineering. Continued to October 19<sup>th</sup>, by request of the applicant.

Removing tree removals from application. Change limit of work on plan, might add gravel on circle.

- 5.) **Notice of Intent: DEP File Number: SE7-2259, 394 Scraggy Neck Road, Cataumet, Thomas Cibotti c/o Falmouth Engineering, Inc.** Install a pile supported residential small, elevated pier, ramp, and float. The work will take place within a V flood zone and within 100 ft. of wetland resource areas. **Continued from 8/17/23.**

Mr. Borselli said that this is a continued hearing. He said that when they made their initial presentation, the concerns and issues of the Commission were very limited. He said that one issue was a portion of the dock that was going to remain in and the portion that was going to be seasonal, were not identified. Another issue was the width of the walkway. He said that they made the revisions. He said that his client, Mr. Cibotti talked to the Harbormaster about



the dock, and they made the necessary revisions to extend the float deeper to provide 50' separation from the eel grass.

Ms. Amado read aloud Mr. Katuska's report: "Site inspection discloses that the area at the foot of the proposed "Steps to Grade" at the landside end of the proposed pier is an area of dense vegetation within Land Subject to Coastal Storm Flowage (LSCSF). Similarly, the eastern end of the existing "Stone Walk", as shown on the plans, is also densely vegetated on both sides before terminating on a narrow strip of unvegetated Coastal Beach just above the limit of salt marsh. Consider the footpath connection between the existing stone walk and the proposed wooden steps to the pier. Document the total area and character of the existing vegetation to be lost for considerations of impact mitigation."

Mr. Borselli said that when they designed the walkway, they thought it best to get less foot traffic over the salt marsh.

Ms. Amado continued to read Mr. Katuska's report: "The pier is intended for seasonal use and the aluminum ramp and wooden float at the waterside end of the proposed pier will be removed by November 1 of each year. Identify an area for landside storage of these items and, for considerations of impact mitigation, document the area and character of the existing vegetation to be lost, if any, in gaining access to the ramp/float storage area. As per BWPB regs. 1.16(e)(9), said off-season storage location should appear on the project plans. (I believe that the 10'x30' area shown in the existing lawn may be intended to serve this purpose, but the plan labelling is unclear.)"

Mr. Borselli said they decided the likely place to store is off site, like in a boatyard. He said option 2 is to store on the driveway.

Ms. Amado also said that Mr. Katuska noted a minor typographic error on the project plan set – on Sheet 1, the ramp is shown as 3'x 16' and on Sheet 2 the ramp is shown as 3'x 13'. He has asked that the clarify and correct the plans.

Ms. Amado continued to read Mr. Katuska's report: "Consider potential construction-period impacts. Is all construction to be from the waterside? If not, where, and how will access be provided and determine if there is a need for any material storage or laydown area. Consider restoration of any temporary impacts made during the construction period."

Mr. Borselli said that the construction will be by water by barge and foot traffic over the lawn. There may be some foot traffic over the salt marsh, and there will be temporary rubber matting put down. Ms. Butler asked what season they are thinking of doing this, and Mr. Borselli said that they hope that they could do it in the Spring of 2025.

Ms. Amado continued to read Mr. Katuska's report: "Regarding the submission requirements contained in the BWPB regs. section 1.16(1)(d), consider requesting:

a. a decking design detail to document the provision of 65% open area OR, alternately, a product specification sheet for the "fiberglass deck material... designed to allow 65% sunlight penetration", as proposed, and

b. one or more product specification sheets for non-CCA-treated wood to be used."

Mr. Borselli said that regarding the decking and the 65% penetration, Bourne's regulations are specific, and it is a high standard.

Ms. Amado continued to read Mr. Katuska's report: "While the Shellfish Survey and Habitat Assessment report performed by Megalodon Environmental, dated May 17, 2023, includes some incidental data on areas of eelgrass found during field investigations, Megalodon's methodology does not indicate that a systematic eelgrass survey was conducted. Furthermore, despite being provided with Megalodon's survey for their review, the MA-DMF's 9/5/23 letter includes a recommendation that "the proponent conduct an eelgrass survey prior to construction to confirm the proposed float does not lie within 25 feet of any eelgrass." MA-DMF goes on to state that the survey should be performed during the eelgrass growing season (June-September) and recommends a specific methodology. Consider, and discuss with the applicant, the time delay required to meet the DMF recommendation versus the risk to the applicant of including a pre-construction eelgrass survey as a pre- construction requirement in the Order of Conditions."

Mr. Szwed asked when the Megalodon survey was done, and Mr. Borselli said it was done in May. There was a discussion about the survey.

Ms. Amado said that she had received a comment from an abutter at 10 Windsor Road, earlier in the day. She said that she was writing as a year-round resident and a voter in the Town of Bourne. She said that she and her husband cannot attend the meeting and they have questions concerning the proposed dock and float. She said that she is concerned about the channel becoming narrower with increased traffic of power and sail boats. She talked about the southwest winds. She wants to know if there will be a boat permanently tied to the dock, and how big is this boat, and how close to the channel is the end of the dock. She said her concerns are the ability of sailors to get in and out of the cove.

Acting Chair Berman said that a certain concern about the size of the boat is understandable, and the Commission does not permit the size of the boats. He said that there is nothing locking anyone into to a certain boat size. Mr. Borselli said that the harbormaster is the reviewing authority here and the one that would voice concerns. He also said that Mr. Cibotti is a sailor.

Acting Chair Berman would like to see this on a projected aerial photograph to see not only the navigational channel but the whole area for navigation concerns.

There was no public comment.

Motion to close the hearing by Mr. Holmes and seconded by Ms. Butler. Roll Call Vote: Mr. Szwed - yes, Mr. Holmes - yes, Ms. Butler - yes, Vice Chr. Palumbo - yes, and Acting Chair Berman - yes, **Motion Carried. 5-0-0.**

Continued to 10/19/23, by request of the applicant, to finalize conditions.

The revised plan can be submitted after.

- 6.) **Notice of Intent: DEP File Number: SE7-2234, 18 Lester Avenue, Monument Beach, Gail Corbett c/o Cape & Islands Engineering, Inc.** Replace existing failed licensed seawall with revisions to wall replacement design and addition to propose beach nourishment. Proposed



removable beach access stairs to replace existing concrete steps. The work will take place in a V flood zone and on or within 100 ft. of other coastal wetland resource areas. **Continued from 8/3/23. Reviewed by CZM.**

Raul Lizardi-Rivera from Cape and Islands Engineering asked what the quorum was for this hearing, and Acting Chair Berman said that 2 members were not at the meeting. Ms. Amado said that the Interim Conservation Agent, Mr. Katuska, submitted a review earlier in the day with his comments. Mr. Lizardi-Rivera said he had not seen that review yet, and then he presented the project from the beginning.

Mr. Lizardi-Rivera said that this is the 3<sup>rd</sup> presentation. He explained that at the beginning they had a project that they presented that was for replacement of a failing retaining wall that is a seawall. He gave the dimensions and said that there are signs of cracking. He said that the applicant would like to replace about 90 feet of the wall, and rather than use poured concrete they would like to use concrete blocks. The repair would require excavation behind the existing wall. They would also replace a piece of the stairs and build stairs to the beach. After the first hearing they were told to investigate alternatives to the wall.

Mr. Lizardi-Rivera said a site visit was performed. There was a second hearing where they presented some revisions that were not considered to be sufficient. After that second hearing, Ms. Fitch reached out to CZM for feedback, and it came back in the form of an email. He said that CZM agreed with the bullets that he had stated in his first supplemental submittal to the first hearing. He talked about the CZM review and talked about what comments they incorporated into the latest design.

Ms. Amado read aloud Mr. Katuska's comments from a letter that was received by Cape and Islands Engineering.: "The modified seawall design presented in the 9/22/2023 revision to the project plan addresses several of the comments raised by the Commission and by CZM's technical review and, within the context of site conditions and conditions on the abutting properties, appears to represent a viable compromise between private property rights and the coastal resource protection.

The proposal to nourish the fronting coastal beach at the site with the sand-textured soils excavated for reconstruction of the seawall is worthy of consideration. Note that the current proposal to spread 30 cubic yards of excavated material over a 1,600 square foot area results in an average depth of 0.5 feet.

CZM's technical review notes several additional items which would improve the post-construction value of beach nourishment at this location. These additional items have, to date, not been incorporated into the applicant's proposal. Specifically,

- a. There is no proposal to monitor post-nourishment elevations along the fronting beach for continuing erosion. Regardless of any post-construction elevation monitoring program which may be proposed or required, consider requiring the post-construction As-Built Plan to include spot-shots and 0.5' contours throughout the nourished portion of the fronting beach from property line to property line.
- b. The current proposal for beach nourishment is a single event, utilizing excavated material from the seawall reconstruction area. There is no proposal to maintain the post-construction

elevations and character of the fronting beach with any follow-up or periodic beach nourishment. Options for the timing of additional beach nourishment may be periodic (e.g., annual) or episodic (triggered by changes in monitored beach elevations overall or by reference to pre-set elevation benchmarks along the reconstructed seawall.)

The proposal to install a removable aluminum stairway from a fixed wooden landing is preferable to the original proposal for fixed stone stairs. It appears likely that motorized equipment will be required to install and remove the aluminum stairway annually. Confirm and identify a location for off-season storage.

The proposal to bury the lowest step of the aluminum stairway may be viable immediately upon installation, with the newly placed nourishment material in place. If additional periodic nourishment is not required, consider options for securing the bottom of the stairway to an eroding intertidal beach.

The revised project plan notes that "plantings on all disturbed areas to be deep-rooted native grasses..." Given the extent of disturbance likely from reconstruction on the seawall, consider instead establishing a designed or fixed-width planting bed along the inner edge of the new seawall.

The two species proposed for planting in the disturbed areas, Switch Grass (*Panicum virgatum*) and Indian Grass (*Sorghastrum nutans*) are deep-rooted native grass species widely used in coastal resource stabilization and revegetation efforts. These perennial grasses, however, often take several years to become fully established. Consider seeding any area to be planted with the grass species proposed with a mixture of salt-tolerant grass species selected for erosion control as well.

Consider additional plantings in the area above the reconstructed seawall to improve wildlife habitat (additional cover, food sources, breeding sites) over that provided by the existing mowed lawn or the proposed grasses."

Ms. Amado continued to say that Mr. Katuska believes that consideration of the comments raised above is likely to require a continuation of the public hearing currently open before the Commission. He also said "If, however, during the public hearing on this Notice of Intent, the Commission determines itself satisfied with responses to the questions and comments raised above, please consider closing the public hearing and working, according to its regular practice, toward issuance of an Order of Conditions approving the project, either as proposed or with such modifications as are agreed upon during the public hearing."

Another Representative from Cape and Island Engineering commented on some of the comments from Mr. Katuska. There was some discussion about the stairs and the removal. There was discussion about restoring plantings.

Mr. Szwed asked about beach nourishment, and Mr. Lizardi-Rivera said the initial source is from the natural soils of the site. The homeowners are willing to allow additional beach nourishment as needed. There was some conversation about the concern for plantings behind the seawall.



Acting Chair Berman said he would like to see a relatively formal monitoring maintenance and nourishment plan. He said that this should be a separate document. He said that this could be a template for others in the area, and they to be able to grasp these reports easily from these projects.

There was no public comment.

Continued to 10/19/23 by request of the applicant.

## **REQUEST FOR CERTIFICATE OF COMPLIANCE**

**1.) DEP File Number: SE7-1938, 1265 County Road, Cataumet, Jeff Reade** Request for Certificate of Compliance for Order of Conditions issued on 4/26/2016. The work included the addition to the single-family dwelling, installation of a new Title V septic system, removal of a storage building, utilities, landscaping, and grading.

Ms. Amado said a site visit was made on September 29<sup>th</sup>, and Mr. Katuska recommends issuance of the COC.

Motion to issue the COC made by Mr. Holmes and seconded by Ms. Butler. Roll Call Vote: Mr. Szwed - yes, Mr. Holmes – yes, Ms. Butler - yes, Vice Chr. Palumbo - yes, and Acting Chair Berman - yes, **Motion Carried. 5-0-0.**

**2.) DEP File Number: SE7-2123, 1220 Route 28A, Cataumet, Robert Hanflig c/o Down Cape Engineering, Inc.** Request for Certificate of Compliance for Order of Conditions issued on 10/07/20. Proposed 50' x 145' storage building, associated retaining wall and expansion of paved parking, located within 100' of a wetland resource area.

Ms. Amado said there was a site visit and there are some issues. She said that the Special Conditions weren't recorded with the original order. She said that Mr. Katuska does not recommend the issuance because it needs adequate as-built information on the stormwater management system that should be provided for review, un-vegetated areas in the buffer zone should be stabilized, and buffer areas should be cleaned of trash and construction debris.

Motion to not grant a certificate at this time, and that a letter goes to the applicant that tells them what they need to do to meet compliance, by Mr. Holmes and seconded by Mr. Szwed. Roll Call Vote: Mr. Szwed - yes, Mr. Holmes – yes, Ms. Butler - yes, Vice Chr. Palumbo - yes, and Acting Chair Berman - yes, **Motion Carried. 5-0-0.**

➤ Approve minutes: 9/7/2023

Motion to accept the minutes of 9/7/23 made by Ms. Butler and seconded by Mr. Holmes. Roll Call Vote: Mr. Szwed - abstain, Mr. Holmes – yes, Ms. Butler - yes, Vice Chr. Palumbo - yes, and Acting Chair Berman - yes, **Motion Carried. 4-0-1.**

➤ Report of the Conservation Agent.

Ms. Amado said that regarding the Indian Trail beach nourishment project, Wilkinson Ecological Design has reached out and asked if they can submit a protocol to use the access ramp for the beach nourishment project on town property. They said that it is more cost effective for them. She said that Ms. Fitch said that if their proposal for that is within the scope of work permitted, then she was ok with it, and it was ok'd by the TA.

Ms. Amado also said that a new Associate member of the Commission has been appointed. He has not yet been sworn in, and he is new to the area. His name is Jacob Gadbois.

➤ Vote to excuse absent members.

Motion made to excuse absent members from the meeting by Mr. Holmes and seconded by Ms. Butler. Roll Call Vote: Mr. Szwed - yes, Mr. Holmes - yes, Ms. Butler - yes, Vice Chr. Palumbo - yes, and Acting Chair Berman - yes, **Motion Carried. 5-0-0.**

➤ Adjourn

Motion made to close the hearing by Mr. Holmes and seconded by Ms. Butler. Roll Call Vote: Mr. Szwed - yes, Mr. Holmes - yes, Ms. Butler - yes, Vice Chr. Palumbo - yes, and Acting Chair Berman - yes, **Motion Carried. 5-0-0.**

The meeting was adjourned at 8:58 PM.

Meeting minutes typed by – Kim Johnson, Recording Secretary  
Audio recorded by the Conservation Department

***Reasonable accommodations for people with disabilities are available upon request. Include a description of the accommodation you will need, including as much detail as you can and include a way we can contact you if we need more information. Please allow advance notice. Send an email to [kthut@townofbourne.com](mailto:kthut@townofbourne.com) or call the Town Administrator's Office at 508-759-0600 x1503.***



## List of Conditions

Applicant: Timothy Lydon  
Project Location: 226 Standish Road  
Project Description: Beach access and stormwater management improvements project  
NHESP File No.: 23-8370  
Heritage Hub Form ID: RC-64697  
Approved Plan: PLAN TO ACCOMPANY A NOTICE OF INTENT SITE #2, 26 STANDISH ROAD, BEACH ACCESS  
PLAN SITE DESIGN  
Plan date: JULY 3, 2023 Revised Date: 08/24/23

To avoid adverse effects to the Resource Area Habitats and to avoid a prohibited Take of state-listed species, the following condition(s) must be met:

1. **Time of Year Restriction:** Work associated with project occurring seaward from the Top of Coastal Bank shall not be conducted during the period April 1 – August 31.
2. **State-listed Species Protection:** The property owner has the responsibility of protecting breeding Piping Plovers and state-listed species of terns that may nest on this section of beach. Therefore, the property owner must allow regular monitoring for the presence of Piping Plovers and terns by a qualified shorebird monitor, as determined by the Division, during the period April 1 – August 31 and shall allow any nests, scrapes, or unfledged chicks to be protected with symbolic fencing (warning signs and twine fencing). Symbolic fencing protects state-listed species nesting habitat, breeding adults, nests, and chicks reducing disturbance and human-caused mortality. These fenced areas shall be managed in accordance with the Massachusetts Division of Fisheries and Wildlife document of April 1993 titled *Guidelines For Managing Recreational Use Of Beaches To Protect Piping Plovers, Terns, And Their Habitats In Massachusetts ("Guidelines")*.
3. **Shorebird & Habitat Protection:** As proposed on the Plan, Heavy Duty Safety Bollards will be installed to reduce unauthorized vehicular travel onto the coastal beach. To protect state-listed shorebirds and their habitats, bollards must be in place during April 1 - August 31.
4. **Motorized Equipment:** Except emergency response vehicles acting in response to an emergency, all motorized equipment on the beach during April 1 – August 31 must comply with the Guidelines. Beach raking or other beach management related activities are not approved herein and require separate review pursuant to the MESA.
5. **Compliance Report:** Within thirty (30) days of the completion of work or as otherwise approved by the Division, the Applicant shall submit a brief written report to the Division documenting compliance with the condition(s) required herein, including representative photographs or supplemental documentation as necessary.
6. **Authorization Duration:** This authorization is valid for 5 years from the date of issuance. Work may be completed at any time during this 5-year period in compliance with the conditions herein. Thereafter, the Applicant must re-file pursuant to the MESA.
7. **Notice:** Upon filing for renewal, extension, or amendment of the Orders of Conditions, the Applicant shall contact the Division for written response regarding impacts to Resource Area habitat of state-listed wildlife.

## List of Conditions

Applicant: Timothy Lydon  
Project Location: 58 Sagamore Road  
Project Description: Beach Access and Stormwater Management Improvements  
NHESP File No.: 23-8385  
Heritage Hub Form ID: RC-64736  
Approved Plan: PLAN TO ACCOMPANY A NOTICE OF INTENT SITE #1, 58 SAGAMORE ROAD, BEACH  
ACCESS PLAN SITE DESIGN  
Plan date: JULY 3, 2023 Revised Date: N/A

To avoid adverse effects to the Resource Area Habitats and to avoid a prohibited Take of state-listed species, the following condition(s) must be met:

1. **Time of Year Restriction:** Work associated with project occurring seaward from the Top of Coastal Bank shall not be conducted during the period April 1 – August 31.
2. **State-listed Species Protection:** The property owner has the responsibility of protecting breeding Piping Plovers and state-listed species of terns that may nest on this section of beach. Therefore, the property owner must allow regular monitoring for the presence of Piping Plovers and terns by a qualified shorebird monitor, as determined by the Division, during the period April 1 – August 31 and shall allow any nests, scrapes, or unfledged chicks to be protected with symbolic fencing (warning signs and twine fencing). Symbolic fencing protects state-listed species nesting habitat, breeding adults, nests, and chicks reducing disturbance and human-caused mortality. These fenced areas shall be managed in accordance with the Massachusetts Division of Fisheries and Wildlife document of April 1993 titled *Guidelines For Managing Recreational Use Of Beaches To Protect Piping Plovers, Terns, And Their Habitats In Massachusetts* ("Guidelines").
3. **Shorebird & Habitat Protection:** As proposed on the Plan, Heavy Duty Safety Bollards will be installed to reduce unauthorized vehicular travel onto the coastal beach. To protect state-listed shorebirds and their habitats, bollards must be in place during April 1 - August 31.
4. **Motorized Equipment:** Except emergency response vehicles acting in response to an emergency, all motorized equipment on the beach during April 1 – August 31 must comply with the Guidelines. Beach raking or other beach management related activities are not approved herein and require separate review pursuant to the MESA.
5. **Compliance Report:** Within thirty (60) days of the completion of work or as otherwise approved by the Division, the Applicant shall submit a brief written report to the Division documenting compliance with the condition(s) required herein, including representative photographs or supplemental documentation as necessary.
6. **Authorization Duration:** This authorization is valid for 5 years from the date of issuance. Work may be completed at any time during this 5-year period in compliance with the conditions herein. Thereafter, the Applicant must re-file pursuant to the MESA.
7. **Notice:** Upon filing for renewal, extension, or amendment of the Orders of Conditions, the Applicant shall contact the Division for written response regarding impacts to Resource Area habitat of state-listed wildlife.