

**Bourne Conservation Commission
Public Meeting Minutes
December 7, 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: Chair Bob Gray, Vice Chair Rob Palumbo, Susan Weston, Jacob Gadbois, and Melvin Peter Holmes.

Excused Members: Sarah Butler, Joseph Soares, Jr., Greg Berman, and Paul Szwed.

Professional Staff in Attendance: Chuck Katuska, Interim Conservation Agent and Amalia Amado, Conservation Department secretary.

Chair Bob Gray called to order the meeting of the Conservation Commission at 6:30 PM, conducted in person on Thursday, October 19th, 2023, and held in the Bourne Veterans Community Building, 239 Main Street, Buzzards Bay, MA 02532, and held virtually by Zoom. Chair Gray 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. Chair Gray said that they follow a 5-5-5 rule, and he explained the rule. Chair Gray said that if a member of the public wishes to comment they will first clearly state their full name for the record. Chair Gray asked if anyone was recording at this time other than the Conservation Department.

ABBREVIATED NOTICE OF RESOURCE AREA DELINEATION

- 1.) **Abbreviated Notice of Resource Area Delineation File Number: SE7-2268, 829 Scenic Highway, Bournedale, Steven Kahian c/o Atlantic Design Engineers, Inc.** To confirm the delineation of a Bordering Vegetated Wetland (BVW) and Mean High Water for a portion of Herring River. **Continued from 11.16.2023.**

Brendan from Atlantic Design Engineers gave a recap of the site and what they have accomplished since the last meeting. He said that the site is located at the corner of Herring Pond Road and Scenic Highway and is approximately 2.1 acres. He said their wetland was completed on October 5th. He said that prior to the last meeting, Chuck Katuska (the Interim Conservation Agent) had a few issues, and they have since responded with a letter, dated December 5th, 2023, regarding Mr. Katuska's comments, which was submitted to the town.

Mr. Katuska said that he provided the review that Brendan spoke about, and he said that at this point he said he has always been satisfied with the field delineation resources that were put out by Goddard Consulting, and now that the plan has been adjusted by field survey and stamped by a professional engineer, he has no more comments.

No public comment.

Motion to approve an Order of Resource Area Delineation (ORAD) that would accept the boundaries reflected on the plan as shown and as discussed previously with Mr. Katuska's

comments tonight and previous comments, by Vice Chair Palumbo and seconded by Mr. Holmes. All in Favor. **Motion Carried. 4-0-0**

REQUEST FOR DETERMINATION

- 1.) **Request for Determination File Number: CC-23-38, 33 Tahanto Road, Pocasset, Peter & Shannon Heino.** To build a shed in an AE flood zone, within 100' of a wetland resource area and 200' of a riverfront.

Peter Heino gave a brief overview of their request. He said that he plans to hand dig for the footings, and he plans to remove any extra soil from the site. He does not foresee any disturbance to any of the grass on the site. He said that access to the site will be on foot, and he does not anticipate any storage of materials on site. If there is any disturbance to the lawn, he will re-seed.

Ms. Weston asked Mr. Heino how far the river is, and he said that at the edge of his property there is about 30 feet of town property, then there is the river.

There was no public comment.

Motion to approve, under a Negative Two Determination, by Mr. Holmes and seconded by Vice Chair Palumbo. All in Favor. **Motion Carried. 4-0-0**

- 2.) **Request for Determination File Number: CC-23-37, 262 County Road, Bourne, Marie Hamblin c/o Shay Environmental Services** To abandon exiting septic tank and install new Micro-Fast 0.5 tank and piping within 100' of a wetland resource area.

Carmen Shay of Shay Environmental Services said that the lot is 5.8 acres, and there is failed septic system and currently has a 1000-gallon tank. He said that they are proposing to put in a new I/A system. He said that most of the work to be done within 100 feet is basically pumping, collapsing, and removing an existing tank and within a few feet installing a new I/A system. He said that it is a wide-open area, and they would not be taking down any trees.

Mr. Katuska said that the delineation is approximately ok, although none of the flags that are identified on the plan are still present on the ground. He said that for the purposes of this hearing, he would assert that the wetland delineation is accurate. He said that the one concern that he does have with the plan is that the 100' buffer set back is plotted incorrectly. Mr. Shay said that he can make that adjustment to the plan. Mr. Katuska said that the leaching field is well outside of the buffer zone.

There was no public comment.

Motion to approve, under a Negative Two Determination, by Mr. Holmes and seconded by Ms. Weston. All in Favor. **Motion Carried. 4-0-0**

- 3.) **Request for Determination File Number: CC-23-39, 0 Eel Pond Rd and corner of Marilyn Rd., Buzzards Bay, Town of Bourne c/o Green Seal Environmental, LLC.**

Drainage improvements to the outfall off the existing walking path, to where it discharges to the Eel Pond (Pond), **Continued from 11.02.2023.**

Chair Gray said that the project is really in Monument Beach.

Stuart Clark, Green Seal Environmental, said that they have been engaged by the Town of Bourne to investigate an outfall where there is a direct connection from the town stormwater system to Eel Pond, without any treatment and as far as their MSL 4 program, they are trying to identify these locations and provide some treatment before it gets discharged into the water. He said that they are going to retrofit some catch basins that are in the roadway and install some catch basins to some water separation. He said further down the line they are going to collect that water and run it through an oil grit separator and infiltrate the water quality volume that comes out of that site, and it will discharge down the existing pipe down to Eel Pond after it gets treated. This system will remove about 89% of the total suspended solids in the stormwater and clean it up before they discharge it.

Mr. Katuska said that his only comment or question is about the central structure. Mr. Clark explained the process to Mr. Katuska. Mr. Katuska said if the details have been provided and submitted to the town's Engineering Department, then he is satisfied with the process.

Someone from the public asked if the Town of Bourne was going to perform this work, and Mr. Clark said that they would not, and they hope to have the work done within a year or two.

Motion to approve, under a Negative Two Determination, by Mr. Holmes and seconded by Ms. Weston. All in Favor. **Motion Carried. 4-0-0**

NOTICE OF INTENT

- 1.) **Notice of Intent: DEP File Number: SE7-2269, 0 Old Monument Neck Rd., Bourne, Town of Bourne, c/o Timothy Lydon, Daniel Cannata of VHB Inc.** Bourne Rail Trail Phase 1. Work consists of constructing a 10-foot-wide shared use path (SUP) along the west side of the existing Mass Coastal Railway Corridor between the existing parking areas at the Tidal Flats Recreation Area on Monument Neck Road near its intersection with President's Road.

Continued to 12.21.23

- 2.) **Notice of Intent: 37 Harbor Drive, Pocasset, Eric & Susan Marandett c/o Jeff Thibodeau, Helios Land Design.** Proposed landscape improvements (pool, spa, fencing, walls, fire pit) in a previously landscaped area. The work will take place in an AE flood zone, within 200 ft. of a riverfront and within 100 ft. of wetland resource area.

Jeff Thibodeau, Helios Land Design, explained the landscape improvements that are being proposed. He said that they would like to remove the existing patio and replace it. They would like to add an in ground pool, a pool enclosure, and fencing. He said that he made some revisions to the plan due to comments by the Conservation Agent.

Mr. Katuska said that he hasn't had a chance to see the revisions that have been submitted. Mr. Katuska said that there are several earlier approvals on this property. He said that there was one in 2019 to remove 20 trees, and some have been taken out and some have not. There was a much older Order of Conditions in 2003, which received a certificate of compliance, which

contained several conditions. He said some of them made him question the work that is being proposed here. He said that the 2003 order required a 50-foot line strip of natural vegetation and it does not exist today. He said that the work that is proposed here goes into the 25-foot strip. He said that the proposal in front of them today is aggressive. There was some discussion about the previous Orders of Condition.

Mr. Thibodeau said he was not involved in the previous projects and did not know about the one in 2003. He said that he feels that they are separate from what they are proposing here today. He said that he would like to discuss this current project on its own merits. He also would like to hear the language of the earlier orders.

Mr. Katuska asked about the DEP file number, and Mr. Thibodeau said it came in earlier in the day. Mr. Katuska said that he had to disagree with Mr. Thibodeau's contention that all the work that is proposed on this plan is in areas that are already disturbed as existing lawn or hardscape areas. He said that the staking on site and on the plan clearly show that there is work proposed in areas identified on the plan as natural vegetation. Mr. Thibodeau explained what he intended.

Susan Weston said that she does not see how the plan can be accepted because there is the 50-foot setback in perpetuity which they seem to be ignoring, even though it is being talked about. She said that it seems that they cannot go any further as it is.

Vice Chair Rob Palumbo said that until they see the language, and investigate it, he doesn't see why would need to go over it again.

Peter Holmes said that he recommends a continuation. Jacob Gadbois agreed with the rest of the commission. Chair Gray said that the best thing to do is to take this under advisement. Mr. Thibodeau asked to hear the special conditions of the 2003 order. Mr. Katuska read aloud part of the special conditions from 2003. There was some more discussion about the old order.

Continued to 12.21.23.

- 3.) **Notice of Intent: 15 Olofson Drive, Cataumet, Jeanne Holland c/o Cauley Site Services.** Upgrade the septic system with an I/A denitrifying system. All disturbed areas shall be restored to existing conditions and planted with combination grasses and shrubs. Project is located within 100' of a wetland resource area.

Peter Blair, Cauley Site Services, said that there is a failed existing septic system, and they propose to install a new septic system. He said that they will remove the existing 1000-gallon tank and may have to remove the existing 1000-gallon cesspool. It said that this project will not increase the size of the dwelling.

Mr. Katuska reiterated what Mr. Blair said and he added that it does have to be dug into the hillside a little bit but there are appropriate erosion controls. He said that he does not have any significant problems with the project.

The DEP File Number is SE7-2275.

John Carroll of Pocasset said these I/A systems are new and seem to be necessary. He asked if this was the first of many. Mr. Blair said that hundreds have already been installed in the town.

Motion to close the public hearing by Mr. Holmes and seconded by Ms. Weston. **Motion Carried. 4-0-0.**

Amalia Amado said that there is a draft Order of Conditions which is to include all general conditions as well as the following special conditions pursuant to Mass General Law Chapter 131, Section 40: 1, 2, 3, 5, 7, 10, 12, 13, 18, 19, 21, 27, 28, and 29. She said that the special conditions pursuant to the Bourne Wetland Protection Bylaw, Article 3.7 including 4, 5, 6, 7, and 9.

Motion to move the draft to the final by Mr. Holmes and seconded by Ms. Weston. **Motion Carried. 4-0-0.**

- 4.) **Notice of Intent: DEP File Number: SE7-2271, 46 Holt Road, Buzzards Bay, Merlin Ladd of Ladd Homes, LLC, c/o Webby Engineering, Inc.** To construct two duplex buildings in an AE flood zone.

Joe Webby of Webby Engineering said that Mr. Ladd would like to purchase the property at 46 Holt Road and would like to construct two duplexes, with driveways and utilities. He said that the entire property currently falls within an AE flood zone.

Mr. Katuska said that he has a few comments, but the only significant concern is that the property is going to be filled very slightly and pitched to drain away from the duplex units. He said that he suggests that any engineered structure for drainage should be shown on the plan, and that the plan should be modified.

No public comment.

Continued to 12.21.23

- 5.) **Notice of Intent: DEP File Number: SE7-2273, 401 Circuit Avenue, Pocasset, Robert W. Nelson, c/o Bracken Engineering, Inc.** To remove an existing septic system and replace it with a new Innovative Alternative (I/A) septic system, and all associated landscaping, grading, and utilities. The work will take place in an AE flood zone, V flood zone and within 100 ft. of wetland resource area.

Chair Gray said that he is stepping aside for a few moments, and Vice Chair Palumbo took over the as Chair.

Zac Basinski of Bracken Engineering said that his client, Robert Nelson is selling the property and is upgrading the septic system. He said that they will be removing the old cesspool and installing a new I/A system. He said that most of the work is out of the 100-foot buffer zone.

Mr. Katuska said that his only concern was access to the work area, and if there was any need for the storage area. Mr. Basinski said access would be through the driveway, and there will be no need for storage, and any disturbed area will be loamed and seeded.

Mr. Carroll asked about I/A and Title 5 and wanted to know how this is different from what has been done for the past 30 years. Mr. Basinski explained the I/A technologies. He said that new systems are being worked on continuously.

Motion to close the public hearing by Mr. Holmes and seconded by Ms. Weston. **Motion Carried. 4-0-0.**

Amalia Amado said that there is a draft order of conditions which is to include all general conditions as well as the following special conditions pursuant to Mass General Law Chapter 131, Section 40: 1, 2, 3, 5, 7, 10, 12, 13, 18, 19, 21, 27, 28, and 29. She said that the special conditions pursuant to the Bourne Wetland Protection Bylaw, Article 3.7 including 4, 5, 6, 7, and 9.

Motion to move the draft to the final by Mr. Holmes and seconded by Ms. Weston. **Motion Carried. 4-0-0.**

- 6.) **Notice of Intent: DEP File Number: SE7-2270, 7 Gainesboro Drive Buzzards Bay, Ian E. Davies c/o Bracken Engineering, Inc.** To construct a 3-foot wide by 125-foot-long seasonal pier, ramp, and float system with a permanent walkway, including all associated utilities, grading, and landscaping. The proposed project is located within 100' of a wetland resource and in a V flood zone. **Continued from 11/16/2023.**

Mr. Basinski explained the proposed project. He said that no eelgrass was discovered in the area. The seasonal pier would be galvanized. He said that they did have comments back from DEP about the one-foot exposed area, and they were fine after the explanation was given to them about how in the wintertime there would be a float system there so people would know that the anchoring system is still there.

Ms. Amado said that a DMF letter came back. Ms. Weston asked about the wall to be repaired. Mr. Basinski said that they would re-mortar the joints that are there. Ms. Weston also asked for an explanation on the anchors.

No public comment.

Motion to close the public hearing by Mr. Holmes and seconded by Ms. Weston. **Motion Carried. 4-0-0.**

The final draft will be done for the next meeting.

Continued to 12.21.23

- 7.) **Notice of Intent: DEP File Number: SE7-2263, 7 Eustis Lane, Cataumet, Alan Patrick and Cynthia Croatti, c/o Cape & Island Engineering, Inc.** Proposed installation and maintenance of a walkway, seasonal pier, ramp, and float. The work will take place within a V flood zone and 100' of a wetland resource area.

Chairman Gray came back to the meeting.

Mark Dibb of Cape and Islands Engineering explained the proposed project of a walkway, seasonal pier, ramp, and float. He talked about the existing conditions and the resource areas. He said that the site is on the south side of Eustis Lane. He said that there is a line of salt marsh, a coastal beach and coastal dune, and associated buffer zones off the coastal dune. Mr. Dibb said that the end of the pier is situated so they do not have to trespass over the beach, dune, or salt marsh.

Mr. Dibb said that a shellfish study was done, and there were a few shellfish found, and it did not meet one of the criteria for either commercial or recreational value. He said that they did provide float stops to keep the float at 30" because of the shellfish found in the area. They did not find any eelgrass. He said they did receive a DMF letter with a few comments that he went over.

Mr. Katuska said that he provided a report, and he wanted to know what portion of the system is removable for the winter, and Mr. Dibb said that they requested that a portion be not removable, and he showed that portion on the plan. Mr. Dibb said that about 115 feet would be removable. Mr. Katuska asked about the significant amount of tree cutting. He said that there is no path, and the path appears to be being created. Mr. Dibb said that they will get on top of that, and they thought that maybe Conservation Agent Stevie Fitch knows more about the trees.

Ms. Weston asked why the dock needs to be so long. Mr. Dibb said it is due to minimum depth requirements. Vice Chair Palumbo asked about the pilings, and Mr. Dibb said they will be 4x4 posts. Jacob Gadbois asked about the tree removal, and he said that it would be good to see if there was some kind of plan regarding the removal of trees.

No public comment.

Continued to 12.21.23

- 8.) **Notice of Intent: DEP File Number: SE7-2272, 354 Circuit Avenue, Pocasset, John Glynn, c/o Zenith Consulting Engineers, LLC.** Construct a 45' long non-seasonal walkway connecting to a 52' long seasonal pier with a ramp and an 8' X 24" float. The work will take place in a V flood zone, within 100ft. of a wetland resource area and 200 ft. of a riverfront.

Jamie Bissonette of Zenith Consulting Engineers said that they are proposing a pier with a float. He said that the first section would be a permanent elevated walkway, then after the salt marsh it will be a temporary pier. He said that they included a compliance narrative in their package. No significant shellfish were found, and they have not received their letter back from Marine Fisheries. He said that they are proposing water and electricity out to the pier itself.

Ms. Amado said they have not received feedback for shellfish or navigation from Natural Resources yet.

No public comment.

- 9.) **Notice of Intent: DEP File Number: SE7-2267, 10 Briarwood Lane, Monument Beach, William R. Keating c/o Bracken Engineering, Inc.** To construct a 3-foot wide by 131-foot-long seasonal pier, ramp, and float system with permanent platform. **Hearing closed on 11.16.23.** The public comment period has ended. Commission members to vote to move the draft Order of Conditions to the final Order of Conditions.

Chair Gray re-opened the public hearing.

Amalia Amado said that there is a draft order of conditions which is to include all general conditions as well as the following special conditions pursuant to Mass General Law Chapter 131, Section 40: 1, 2, 3, 7, 8, 9, 10, 12, 18, 19, 20, 27, 28, and 29. She said that the special conditions pursuant to the Bourne Wetland Protection Bylaw, Article 3.7 including 5, 6, 7, 10, 12, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, and 25.

Additional Special conditions are: 1.) The contractor shall develop a spill management plan for any hazardous materials that may be employed during work in the buffer zones, salt marsh or over the water, specifically the plan must address how to effectively deal with spillage of fuel or hydraulic fluids from equipment. The contractor must always maintain an appropriate spill kit at the project site, at all times. 2.) The contractor must meet with the Bourne Shellfish Constable for payment to the Shellfish Mitigation Fund for BWR 1.092, prior to construction and proof of payment must be provided prior to construction. 3.) All recommendations included in the Division of Marine Fisheries letter dated November 14th, 2023, and signed by Amanda Davis, are to be incorporated into the Order of Conditions. Bylaw conditions numbers 14 through 25, above all shall continue in perpetuity beyond the limitations of the order and with the sale of the property to others.

Motion to move the draft to the final and issue the order by Ms. Weston and seconded by Mr. Holmes. **Motion Carried. 4-0-0.**

Motion to close the public hearing by Ms. Weston and seconded by Mr. Holmes. **Motion Carried. 4-0-0.**

- 10.) **Notice of Intent: DEP File Number: SE7-2260, 80 Megansett Road, Cataumet, Bishop-Megansett Family Limited Partnership c/o Cape & Island Engineering, Inc.** Proposed seasonal installation and maintenance of a timber pier with an aluminum ramp and a pile-supported 8 x 12-foot float in the waters of Squeteague Harbor. The work will take place in a V-flood zone, within 200 ft. of a riverfront area and 100 ft. of wetland resource area. **Hearing closed on 11.16.23.** The public comment period has ended. Commission members will vote to move the draft Order of Conditions under the State Act and draft denial under the Town Bylaw to the final Order of Conditions.

Chair Gray re-opened the public hearing to hear the draft order of conditions.

Mr. Katuska said that draft conditions include special conditions pursuant to the Wetlands Protection Act conditions: 1, 2, 3, 7, 8, 9, 10, 12, 18, 19, 20, 22, and post construction condition, 27, 28, and 29. He said that there are no special conditions recommended under the Bourne

Bylaw because the Commission has quoted denial and the rationale for the denial is written up in a couple of pages.

Ms. Weston suggested that the guidance by DEP to use all angles to determine the 20% across should be included. Chair Gray asked if it is in writing, and Mr. Katuska said that there is not anything in writing, and it would not necessarily strengthen the document to include it.

Mr. Katuska read aloud the denial letter.

Motion to move the draft to the final and issue the denial by Ms. Weston and seconded by Mr. Holmes. **Motion Carried. 3-1-0.** Vice Chair Palumbo opposed.

Motion to move the order of condition under Chapter 131, Section 40 to the final by Ms. Weston and seconded by Mr. Holmes. **Motion Carried. 4-0-0.**

The Commission thanked Mr. Katuska for all that he has done for the Conservation Department during his brief time working for the department.

Motion to close the public hearing by Ms. Weston and seconded by Mr. Holmes. **Motion Carried. 4-0-0.**

➤ Approve minutes 10/19/2023.

Motion to accept the minutes of 10/19/23, as written, made by Mr. Holmes and seconded by Ms. Weston. **Motion Carried. 4-0-0.**

➤ Report of the Conservation Agent

Ms. Amado said she is happy about the return of Ms. Fitch, and that Sarah Butler gave birth to a boy on the 5th.

➤ Vote to excuse absent members.

Motion made to excuse absent members from the meeting by Vice Chair Palumbo and seconded by Mr. Holmes. **Motion Carried. 4-0-0.**

➤ Adjourn

Motion made to adjourn made by Mr. Holmes and seconded by Ms. Weston. **Motion Carried. 4-0-0.**

The meeting was adjourned at 8:25 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 or call the Town Administrator's Office at 508-759-0600 x1503.