

**Bourne Conservation Commission
Public Meeting Minutes
February 1, 2024**

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, Paul Szwed, Peter Holmes (remote), Joesph Soares, Susan Weston and Sarah Butler.

Excused Members: Chair Robert Gray, and Jacob Gadbois.

Professional Staff in Attendance: Stephanie Fitch, Conservation Agent.

Vice chair Rob Palumbo called to order the meeting of the Conservation Commission at 6:30 PM, conducted in person on Thursday, February 1, 2024, and held in the Bourne Veterans Community Building, 239 Main Street, Buzzards Bay, MA 02532, and held virtually by Zoom. Vice chair 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. Vice chair said that they follow a 5-5-5 rule, and he explained the rule. Vice chair said that if a member of the public wishes to comment they will first clearly state their full name for the record. Vice chair asked if anyone was recording at this time other than the Conservation Department.

Request for Determination

1. Applicant: Town of Bourne File Number: **CC-24-3**
Representative: Bourne Conservation Department
Project Address: 24 Perry Avenue, Buzzards Bay
Proposed Project: Vista pruning within 100-feet to a coastal bank (Bourne Pond) and in the AE flood zone.

Ms. Fitch, represented the Conservation Department, introduced the project addressing the replacement of the memorial bench overlooking Bourne Pond and the desire to restore the area's appeal for communal enjoyment. A member of the community has expressed the need to replace the bench and prune the vista surrounding it to enhance the ambiance of the pond area.

Currently, the pond's bank is overrun by invasive species such as bittersweet, multiflora rose, common privot, Phragmites, and bush honeysuckle. The proposed solution entails the removal of these invasive species through flush cutting while preserving the root structures to maintain bank stability. It is important to note that no trees or snags are slated for removal unless deemed necessary. Additionally, the resident has requested vista pruning for the black oak directly in front of the bench to optimize the view.

Furthermore, a 5'x53' pollinator garden is proposed to be planted landward of the bank, contributing to the ecological health and aesthetics of the area.

No public comment.

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Motion made for a Negative Two Determination by Ms. Butler and seconded by Mr. Soares. Roll Call: Ms. Weston-yes, Ms. Butler-yes, Mr. Szwed-yes, Mr. Soares-yes, Mr. Holmes-yes and vice chair Palumbo-yes. Motion carried. 6-0-0.

Notice of Intent

1. Applicant: Eric & Susan Marandett DEP File Number: SE7-2276
Representative: Jeff Thibodeau, Helios Land Design
Project Address: 37 Harbor Drive, Pocasset
Proposed Project: Proposed landscape improvements (pool, spa, patio, fencing, walls, fire pit) in a previously landscaped area. The work will take place in an AE and VE Flood Zone and within 100 ft. of wetland resource areas. **Continued from 1.18.2024**

Jeff Tibodeau presented the project on behalf of the applicant, with Susan Marandett also in attendance. Tibodeau provided an overview of the revisions requested by the commission during the previous meeting. Prior to this session, Tibodeau and Marandett met with Ms. Fitch to address these revisions. As a result, they have incorporated a pool drawdown feature into the plan, which will be situated in the northwest corner above the rinse station to facilitate seasonal draining. This addition will ensure the preservation of a tree that would otherwise have been affected.

Moreover, they have adjusted the lawn edge outside the 50-foot buffer zone to reflect a re-naturalized area, underscoring the significance of maintaining the buffer. To clarify this delineation, Tibodeau and Marandett propose the use of steel landscape edging or a line of shrubs to clearly demarcate the buffer zone.

Ms. Fitch reported that the proposed revisions represent a significant advancement compared to the previous plan, including the addition of a pool drawdown basin and relocating all structures beyond the 50-foot buffer zone to facilitate naturalization. These adjustments align with the ongoing conditions outlined in SE7-1221. It is recommended that vista pruning be conditioned as outlined in the narrative. Additionally, the Commission is encouraged to discuss the demarcation of the no-touch buffer zone. The inclusion of signs, fences, or markers in projects is essential to ensure compliance beyond the project's scope, informing landscapers, renters, and visitors about the need to maintain the naturalized state of the area. However, the current plan's proposed signage lacks visibility and fails to effectively delineate the 50-foot buffer zone. A more prominent signage solution is required to fulfill this purpose adequately.

The commission members agreed that the boundary of the lawn is essential to prevent lawn encroachment and maintain the naturalized area. The commission also discussed the importance of continuing the steel edging along the sides of the permitted walkway for consistency and ease of maintenance.

No public comment.

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**Motion made to close the public hearing by Mr. Holmes and seconded by Ms. Weston.
Roll Call: Ms. Weston-yes, Ms. Butler-yes, Mr. Szwed-yes, Mr. Soares-yes, Mr. Holmes-yes and vice chair Palumbo-yes. Motion carried. 6-0-0.**

The 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, 4, 7, 9,10, 12, 14, 15, 17, 18, 21,22, 26, 27, and 28. She said that the special conditions pursuant to the Bourne Wetland Protection Bylaw, Article 3.7 including 2,3,4,5, 6, and 7.

ADDITIONAL SPECIAL CONDITIONS pursuant to the Bourne Wetland Protection By-Law Article 3.7

ASC-1) Pool water must be drained into the approved drywell. No pool water can be discharged into any wetland resource areas.

ASC-2) The 50' buffer must be demarcated by steel landscape edging or another method approved by the Conservation Agent.

ASC-3) No specific vista pruning was approved under this OOC. Vista pruning requests must be made to the Conservation Department and administratively approved by the Agent prior to start of any tree work.

ASC-4) Three annual monitoring reports with photos demonstrating the state of the natural 50' buffer are required prior to issuance of the COC.

Special Condition #17, Bylaw Conditions #2, #3, and #4 and ASC #1 and #2 above shall continue in perpetuity beyond the limitations of this Order and with the sale of the property to others.

**Motion made to move the draft to the final by Mr. Weston and seconded by Ms. Butler.
Roll Call: Ms. Weston-yes, Ms. Butler-yes, Mr. Szwed-yes, Mr. Soares-yes, Mr. Holmes-yes and vice chair Palumbo-yes. Motion carried. 6-0-0.**

2. Applicant: Rob Leavell, Cape Associates Inc. DEP File Number: SE7-2277
Representative: Graham Carr, Vital Structures LLC
Project Address: 42 Monument Avenue, Monument Beach
Proposed Project: Repairs to stabilize existing concrete seawall within 100 ft. of wetland resource areas and in a VE Flood Zone. **At the request of the applicant continued to 3.07.2024.**
3. Applicant: David P. Delancey, TRS of DPD Realty Trust DEP File Number: SE7-2280
Representative: Bracken Engineering, Inc.
Project Address: 290 Shore Road, Pocasset
Proposed Project: To remove and replace the existing soil absorption system in the AE flood zone, within 100-feet of a wetland resource area and within 200-feet of a riverfront.

Robert Dewar from Bracken Engineering, Inc. represented the Lobster Trap restaurant project, situated near Back River, a sensitive area with a salt marsh behind it. The revised plans technically removed the proposed site from the riverfront, although it is adjacent to Back River.

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Despite this, the existing septic system, a Presby Enviro leaching field with a MicroFast unit, has shown signs of failure. The team has been proactive in addressing the issue, regularly pumping the system to introduce oxygen for self-repair. With the system being 11 years old, they are now planning to replace it with a similar setup.

Ms. Fitch reported, the proposed work is confined to a previously developed area, and the installation of a new septic system is seen as an improvement over the current conditions. Discussions with the Board of Health (BOH) revealed a sole concern regarding sedimentation onto the bank across Shore Road. To address this, erosion controls are recommended to encircle the entire Limit of Work (LOW) area, excluding the concrete retaining wall, to prevent sediment from reaching the road. An inquiry was made about the parking, questioning whether it will remain a crushed shell driveway. No further comments were provided, with the agent believing that the proposed work complies with the performance standards outlined in the Wetlands Act and related bylaws.
No public comment.

**Motion made to close the public hearing by Mr. Soares and seconded by Ms. Weston.
Roll Call: Ms. Weston-yes, Ms. Butler-yes, Mr. Szwed-yes, Mr. Soares-yes, Mr. Holmes-yes and vice chair Palumbo-yes. Motion carried. 6-0-0.**

The 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, 12, 14, 21, 22, 27, and 28. She said that the special conditions pursuant to the Bourne Wetland Protection Bylaw, Article 3.7 including 5, 6, and 7.

ADDITIONAL SPECIAL CONDITIONS pursuant to the Bourne Wetland Protection By-Law Article 3.7

ASC-1) This OOC does not permit any change to the parking lot design or surface material. Parking lot must be returned to original condition once construction is complete.

ASC-2) Erosion controls must completely surround the area of excavation.

**Motion made to move the draft to the final by Mr. Weston and seconded by Mr. Soares.
Roll Call: Ms. Weston-yes, Ms. Butler-yes, Mr. Szwed-yes, Mr. Soares-yes, Mr. Holmes-yes and vice chair Palumbo-yes. Motion carried. 6-0-0.**

4. Applicant: David P. Delancey, TRS of DPD Realty Trust DEP File Number: SE7-2283
Representative: Bracken Engineering, Inc.
Project Address: 290 Shore Road, Pocasset
Proposed Project: Construction of an elevated deck system for the purpose of supporting a walk-in cooler in the AE flood zone, within 100-feet of a wetland resource area and within 200-feet of a riverfront.

Robert Dewar from Bracken Engineering Inc. presented the project for the Lobster Trap restaurant, highlighting the existing site conditions. There is an existing access drive extending along the rear of the building. The proposal includes adding an elevated platform at the rear of the building to accommodate a walk-in cooler. This platform, measuring 8x12, is designed to be above the flood plain in AE15 and the proposed design in AE16 on the

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seaward side, adjacent to the salt marsh. The area is pre-disturbed, and the foundation for the platform will be supported by helical piles screwed into the ground. Erosion control measures will also be implemented as part of the design.

Ms. Fitch noted, originally designated as a riverfront project, but DEP coastal river mapping revealed that the mouth of the river is located further upstream, placing this project within the AE flood zone and buffer to the salt marsh. The site is a previously developed area currently utilized for storage, as evidenced by provided photos. The Wetlands Protection Act (WPA) stipulates that projects in or near salt marshes should avoid destruction or adverse effects on productivity. Although this project is in a pre-altered area, it does encroach slightly towards the salt marsh, which the Commission typically discourages. The agent inquires if alternative locations were considered. A question is raised regarding the extent of the erosion control barrier's downward reach.

Ms. Fitch shared comments from Jacob Gadbois regarding runoff into the salt marsh. Mr. Dewar explained the erosion control area is to allow space for a mini excavator to drive down the helical piles for the foundation. Mr. Dewar clarified that no alternative locations were considered due to the constraints of the tight lot. Mr. Dewar highlighted that the walk-in cooler will be elevated approximately 8-9 feet above ground level, providing space below to mitigate the impact of wind-driven rain. Additionally, they plan to cut a door into the side of the building to provide access to the cooler.

During the discussion, erosion control measures were deliberated upon. It was proposed to implement a silt sock style erosion control system. Ms. Fitch mentioned that Mr. Gadbois preferred a buried silt fence with hay bales. Concerns were raised about stormwater affecting the salt marsh. Mr. Dewar suggested considering an earth and berm style erosion control method for future planning.

It was discussed that there will be four piles on each corner of the addition for the new freezer. The clarification suggests that this new freezer is an addition to the existing ones they already have. Additionally, it's mentioned that this new addition will barely encroach on the existing shell drive, meaning it won't significantly increase traffic to the salt marsh area.

No public comment.

Motion made to close the public hearing by vice chair Palumbo and seconded by Ms. Weston. Roll Call: Ms. Weston-yes, Ms. Butler-yes, Mr. Szwed-yes, Mr. Soares-yes, Mr. Holmes-yes and vice chair Palumbo-yes. Motion carried. 6-0-0.

The 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, 4, 7, 9, 12, 13, 18, 19, 21, 27, and 28. She said that the special conditions pursuant to the Bourne Wetland Protection Bylaw, Article 3.7 including 5, 6, and 7. No additional special conditions.

Take note #13) Whatever erosion control measures are indicated on the plan, they shall consist of buried silt fence with hay-bales and these must be maintained throughout the construction period. It is the applicant's responsibility to take additional appropriate measures to control sedimentation/erosion into the wetland areas.

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Motion made to move the draft to the final by Mr. Weston and seconded by Ms. Butler. Roll Call: Ms. Weston-yes, Ms. Butler-yes, Mr. Szwed-yes, Mr. Soares-yes, Mr. Holmes-yes and vice chair Palumbo-yes. Motion carried. 6-0-0.

5. Applicant: Gretchen S. Dietrich DEP File Number: SE7-2281

Representative: Bracken Engineering, Inc.

Project Address: 415 Circuit Avenue, Pocasset

Proposed Project: To remove the existing septic system and replace with a new Innovative/Alternative (I/A) septic system, and all associated landscaping, grading and utilities. The work will take place within an AE flood zone and within 100-feet of a wetland resource area.

Robert Dewar of Bracken Engineering, Inc. represented the project on behalf of the applicants. He outlined the resource areas, which include partial flood zones and a coastal bank. The proposed project involves removing cesspools and replacing them with an I/A Technology system, including denitrification. The project was designed with the intention of preserving existing structures. As part of this, the tanks have been relocated to the rear of the property. Given that the existing house is supported by piles, the project aims to avoid any deep excavation nearby. Additionally, efforts are being made to preserve two sheds on the property. Overall, the design represents an improvement, and the landscaping plan focuses on restoring disturbed areas.

Ms. Fitch raised a question regarding the removal of two trees: Is this at the homeowner's request or necessary for access/construction of the system. Mr. Dewar answered there is only about 12-feet between the property lines and the tree removal would be for access. Clarification needed on whether a total of four trees will be removed.

No public comment.

Motion made to close the public hearing by Ms. Weston and seconded by Mr. Holmes. Roll Call: Ms. Weston-yes, Ms. Butler-yes, Mr. Szwed-yes, Mr. Soares-yes, Mr. Holmes-yes and vice chair Palumbo-yes. Motion carried. 6-0-0.

The 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, 14, 18, 27, and 28. She said that the special conditions pursuant to the Bourne Wetland Protection Bylaw, Article 3.7 including 5, 6, 7, and 9.

ADDITIONAL SPECIAL CONDITIONS pursuant to the Bourne Wetland Protection By-Law Article 3.7

ASC-1) The disturbed ground must be stabilized with appropriate ground cover once construction is complete. Erosion controls must remain in place until topsoil is stabilized. The Commission encourages limiting lawn and planting groundcovers that will be more sustainable and environmentally friendly.

Motion made to move the draft to the final by Mr. Weston and seconded by Mr. Holmes. Roll Call: Ms. Weston-yes, Ms. Butler-yes, Mr. Szwed-yes, Mr. Soares-yes, Mr. Holmes-yes and vice chair Palumbo-yes. Motion carried. 6-0-0.

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6. Applicant: Donald W. Jones Jr. DEP File Number: SE7-2282
Representative: David R. MacLean & Associates * Architecture
Project Address: 36 Baxendale Road, Cataumet
Proposed Project: Replace the existing deteriorated beach stairs and platform and construct a proposed one-car garage within the existing lawn and driveway. The work will take place within a Velocity flood zone and 200-feet of a riverfront.

David MacLean represented the project on behalf of the applicants, involving the reconstruction of existing beach stairs to match the original design. However, the clients requested an 8 ft. extension of the platform to accommodate kayaks. Currently, the existing platform, measuring 5x4x4, is buried into the coastal bank. The plan is to remove it and elevate it above the grade, with the landward edge of the platform sitting on a block at grade. This adjustment ensures the platform extends 5 ft. beyond the bank, meeting the recommended height of over 2 ft. above the coastal bank. The coastal bank, consisting of only 6 treads for stairs, will be supported on the cantilevered side with three helical coils, minimizing topographical disturbance. To offset the impact of the platform extension, additional plantings will be provided.

Ms. Fitch recommended to redesign the stairs by eliminating the landing to ensure the stability of the bank, in accordance with guidelines from the Coastal Manual. These guidelines suggest that structures like boardwalks and stairways should be constructed with minimal width, elevated at least 2 feet above ground level, designed to minimize storm damage, without risers to reduce shading, and monitored for adverse effects. It's proposed to keep the stairs within the existing footprint, elevate them as high as possible, and revegetate underneath. Additionally, any invasive removal should be conducted by a professional and approved by the Conservation Department before work commences.

It appears that only one tree, which has already fallen down, is proposed to be removed in relation to the garage. It is recommended to install drywells to decrease runoff to neighboring properties, with Mr. MacLean noting ownership of the neighboring property. Additionally, Ms. Fitch suggested keeping the stairs as they are to avoid further disturbance of the coastal bank.

The commission has agreed the stairs should be replaced as they are in kind in order to protect the coastal bank from further disturbance. Ms. Fitch requested a revised plan without the platform.

No public present for comment.

**Motion made to close the public hearing by Ms. Butler and seconded by Ms. Weston.
Roll Call: Ms. Weston-yes, Ms. Butler-yes, Mr. Szwed-yes, Mr. Soares-yes, Mr. Holmes-yes and vice chair Palumbo-yes. Motion carried. 6-0-0.**

The 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, 4, 7, 9, 12, 18, 21, 27, and 28. She said that the special conditions pursuant to the Bourne Wetland Protection Bylaw, Article 3.7 including 5, 6, and 7.

ADDITIONAL SPECIAL CONDITIONS pursuant to the Bourne Wetland Protection By-Law Article 3.7

General condition Number(s), Special Condition Number(s), Bylaw Conditions Number(s) above

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shall continue in perpetuity beyond the limitations of this Order and with the sale of the property to others.

ASC-1) This OOC does not permit any vegetation removal on the coastal bank. The contractor will need to request approval from the Conservation Department prior to any invasive species removal.

ASC-2) All work on the coastal bank must be done by hand. No heavy machinery is permitted on the coastal bank.

ASC-3) This OOC does not permit the landing on the coastal bank stairs. A revised plan showing no landing and gravel base around garage is required.

Motion made to move the draft to the final by Mr. Weston and seconded by Mr. Soares. Roll Call: Ms. Weston-yes, Ms. Butler-yes, Mr. Szwed-yes, Mr. Soares-yes, Mr. Holmes-yes and vice chair Palumbo-yes. Motion carried. 6-0-0.

7. Applicant: Gary Vincent DEP File Number: SE7-2279
Representative: Wayne Tavares, Wet Tech Land Design Inc.
Project Address: 14 Lewis Point Rd, Buzzards Bay
Proposed Project: Title 5 septic system upgrade, installation of a shed that anchors 2 proposed retaining walls, sitting area on grade, and proposed mitigation planting located within 100-feet of a wetland resource area and in an AE flood zone. **Continued to 2/15/2024.**
8. Applicant: Town of Bourne c/o Timothy Lydon DEP File Number: SE7-2269
Representative: Daniel Cannata of VHB Inc.
Project Address: 0 Old Monument Neck Rd, Bourne (Mass Coastal Railway Layout)
Proposed Project: 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 2/15/2024.**

Minutes

Motion made to approve minutes from 11/16/23 by Ms. Weston and seconded by Mr. Szwed.

Roll Call: Ms. Weston-yes, Ms. Butler-yes, Mr. Szwed-yes, Mr. Soares-yes, Mr. Holmes-yes and vice chair Palumbo-yes. Motion carried. 6-0-0.

The minutes of 12/07/23 and 1/18/2024 were tabled for the next meeting.

- Discussion and possible vote on Bourne Conservation Commission Shellfish Mitigation Calculation Sheet.

Ms. Fitch has shared the shellfish mitigation sheet she's been collaboratively developing with the DNR director. This program presents a promising opportunity for Bourne to adopt. Under this initiative, applicants would contribute a fee towards mitigation efforts for reseeding shellfish. This approach allows the shellfish to remain in their natural habitat, effectively replacing the need for relocation.

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Motion made to accept policy 24-6 by Ms. Weston and seconded by Ms. Butler. Roll Call: Ms. Weston-yes, Ms. Butler-yes, Mr. Szwed-yes, Mr. Soares-yes, Mr. Holmes-yes and vice chair Palumbo-yes. Motion carried. 6-0-0.

➤ **Report of the Conservation Agent.**

During the commission report, Ms. Fitch relayed that a supplementary eelgrass survey conducted by ECR on 9/22/2023 at 17 Scotch House Cove Road revealed no sprigs or eelgrass beds. The applicant sought to eliminate the condition for 4 ft. float stops. However, the commission, considering the initial survey's detection of weaker sprigs, reached a consensus to maintain the float stops as a precautionary measure.

Motion made to keep condition as is by Ms. Weston and seconded by Mr. Holmes. Roll Call: Ms. Weston-yes, Ms. Butler-yes, Mr. Szwed-yes, Mr. Soares-yes, Mr. Holmes-yes and vice chair Palumbo-yes. Motion carried. 6-0-0.

➤ **Vote to excuse absent members.**

Motion made to excuse chair Robert Gray by vice chair Palumbo and seconded by Mr. Swzed. Roll Call: Ms. Weston-yes, Ms. Butler-yes, Mr. Szwed-yes, Mr. Soares-yes, Mr. Holmes-yes and vice chair Palumbo-yes. Motion carried. 6-0-0.

Meeting adjourned 8:27pm

**Minutes typed by Amalia Amado, Conservation 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.