

**Town of Bourne Conservation Commission  
Minutes April 6<sup>th</sup>, 2023**

RECEIVED

Chm. Robert Gray called to order the meeting of the Conservation Commission at 6:30 p.m., conducted in person and via remote access on Thursday, April 6<sup>th</sup>, 2023, held in the Bourne Veterans Community Building, 239 Main Street Buzzards Bay, MA 02532. Chm. Gray explained all reviews, unless otherwise stated, are joint reviews. Applications will be processed pursuant to the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131 Section 40 and pursuant to Article 3.7 of the Town of Bourne Wetlands Protection Bylaw. Chm. Gray asked if a member of the public wishes to comment they will first clearly state their full name for the record. Chm. Gray asked if anyone was recording at this time, other than the Conservation Department.

**Commission members present:** Chm. Gray, Rob Palumbo, Greg Berman, Sarah Butler & Patrick Scanlan

**Excused members:** Paul Szwed, Susan Weston & Peter Holmes

**Professional staff in attendance:** Stephanie Fitch, Jack Landers-Cauley, Forest Schenck

**Present by Zoom:** Mr. Berman

**WITHDRAWAL**

14 Kennebec Ave, Bourne

RDA File Number: CC-23-8

- To be filed at a later date as a Notice of Intent.

**CONTINUATIONS**

298 Barlows Landing Road, Pocasset continued to 4/20/2023

DEP File Number: SE7-2235

198 North Road, Pocasset continued to 4/20/2023

DEP File Number: SE7-2211

45 Harbor Drive, Pocasset continued to 5/04/2023

DEP File Number: SE7-2241

*Chm. Gray recused himself from this review and Mr. Palumbo took over as chair.*

**REQUEST FOR DETERMINATION**

- 1) **File Number: CC-23-9, 81 Red Brook Harbor Road, Bourne c/o Bruce R. Parker, proposed project:** To install a patio within 100' of a wetland resource area and in a V flood zone. The homeowner, Patti Parker, and Jonathan Searles landscape contractor of Francisco Tavares Inc. presented the project. Mr. Searles explained that it has been a very difficult area to grow any vegetation in and the proposed patio will help mitigate the muddy area where the family likes to gather. The patio does have a catch basin that will go to an existing onsite drywell. They will have a siltation fence and straw waddle for erosion control. Mrs. Parker emphasized they've tried to grow in that area to keep it natural. The area is hilly and pitched towards the cottage, hence the proposed project will even it out to make a sitting area with table and chairs. There is one cedar tree in question but making best effort to avoid any tree removal. No fill will be brought in, the subbase (dense grade and stone dust) will be enough material to even out the base.

Agent comment: Ms. Fitch was pleased to see the bayberry proposed to help stabilize the ground landward of the top of bank. The drywell will prevent any drainage over the bank.  
No public comment.

Motion made by Mr. Berman and seconded by Ms. Butler for a Negative Two Determination. Roll call: Mr. Berman-yes, Ms. Butler-yes, Mr. Scanlan-yes & Mr. Palumbo-yes. Chm. Gray-Abstained. **Motion carried. 4-0-1.**

*Chm. Gray returned to chair*

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- 2) **File Number: CC-23-10, 260 Main Street, Bourne c/o Jeffrey Derouen, proposed project:** To renovate the existing building adding 28' x 60' storage space on the rear of the building. This project is located in an AE flood zone. Review under the State Act only. The owner Jeffrey Derouen represented the proposed project. He is looking to add storage on the back of the building. This building used to be a car wash back in 1970, therefore there is a lot of existing drainage there. They are cleaning out debris within all the drainage pipes that has built up over the years and there is an existing paved lot.

Agent comment: Ms. Fitch reports this is State Act Only in AE flood zone. 1,680 SF rear addition onto existing building. Planning board found that the alteration of the structure doesn't substantially change the site and relationship to abutting properties. This is impervious on impervious so there isn't much of a change.

No member comments. No public comments.

Motion made by Mr. Palumbo and seconded by Ms. Butler for a Negative Two Determination. Roll call: Mr. Berman-yes, Ms. Butler-yes, Mr. Palumbo-yes & Chm. Gray- yes.

**Motion carried. 4-0-0.**

#### NOTICE OF INTENT

- 1) **DEP File Number: SE7-2236, 274 Williston Road, Sagamore Beach Dana and Luann Hanna c/o Brad Holmes, ECR LLC, proposed project:** A proposed vegetation management plan. The work will take place within an AE flood zone and within 100 ft. of other wetland resource areas.

Cameron Larson of ECR LLC, represented the project. This is a newly constructed single family home with a paved driveway. The home itself is outside the resource areas, surrounding the home and to the rear is lawn and a coastal wetland system. The plans show the rear Bordering Vegetated Wetlands on the eastern property line. A Coastal Bank was identified based on elevations. Between those areas and a developed portion of the site is a densely vegetated buffer zone that is severely degraded by invasive species. Non-native invasive species were observed, the dominant invasive plant species observed onsite included Morrow's Honeysuckle, Oriental Bittersweet, Japanese Barberry and Bittersweet vine. There is also a vast amount of Greenbrier throughout the area that is impacting native vegetation and is proposed to be treated and removed as part of this management plan. The targeted plants will be flagged in the field, flush cut at the base of their stem and then removed from the site. Upon cutting, the stems will be painted with herbicide to prevent stump sprouting and ultimately kill off the remaining root mass. Though labor intensive, this technique prevents herbicide exposure to non-target plants. All herbicide use will be completed by a licensed herbicide applicator in compliance with manufacturer guidelines.

Agent comment: Ms. Fitch read written comments submitted by an abutter concerned with the property lines and the required 25 ft. vegetation buffer along the abutting properties. Chm. Gray explained that the 25 ft. buffer along Pilgrim Rd & the home at 276 Williston Rd are not within the Conservation Commission's jurisdiction and they should follow up those concerns with the Planning Board.

The Commission members would like to see a landscaping plan that documents the proposed view sheds. At the request of the applicant the hearing was continued to May 4<sup>th</sup>, 2023.

- 2) **DEP File Number: SE7-2234, 18 Lester Avenue, Monument Beach, Gail Corbett c/o Cape & Islands Engineering, Inc., proposed project:** To remove the existing concrete seawall and replace with interlocking block wall, with timber stairs to replace existing concrete steps for



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beach access. The work will take place within a V flood zone and on or within 100 ft. of other coastal wetland resource areas.

Raul Lizardi PE from Cape & Islands Engineering, Inc. represented the project on behalf of the homeowners. The sea level is rising and a lot of sand has moved away from the shoreline, eroding the beach in front of this property and exposing the footing of the concrete sea wall. They have attempted patching but cracking continues and he believes a new footing and replacement sea wall will be the best option. He mentioned the Town of Bourne has done beach nourishment to the South of this property near the playground and has done work replacing the contiguous seawall in that area. They proposed to remove this section of the concrete wall in front of their property and replace with blocks similar to what the Town did. With the sea-level rise waves splash over onto the land behind, so they will create another row to mitigate that damage. DMF & DEP said that when they open the trench with an excavator that the big boulders will have to be tracked off site or else leaving the boulders on the beach would be considered fill in tidal waters and would require a dredge permit, which they do not want to do. They have proposed drywells to help drainage on site and the access to the project will be on the South side to avoid driving over the septic system.

Agent Comment: Ms. Fitch read DMF's comments- no expansion further seaward, a time of year restriction May 1<sup>st</sup>-July 31<sup>st</sup>, no rocks can be placed or left in front of the seawall, as much work as possible should be from the landward edge, and the contractors must avoid re-fueling equipment on site. Ms. Fitch is concerned that the replacement of this wall is not including design improvements based on Best Management Practices. She questioned if the seawall could be moved landward since there is loss behind the wall and keeping it as is will only continue the cycle of erosion. She would like to see a plan incorporating design improvements now so they don't have to come back in 10 years. She also asked about the option of replacing with a sloped rock revetment. Mr. Lizardi discussed the possible option of a revetment stone wall but he mentioned it would chase the grades back on the property and it would be hard to fit the proper connection to match the straight faces of the walls on the abutting properties. He is also doing more research on a curved top wall which would slow the energy of waves and direct them back to the ocean.

Member comment: Mr. Berman also agreed with the option of a revetment and said that slopes have a lot of advantages and said it might cause some loss of upland land but there is no comparison between a revetment and a vertical structure in a V flood zone. Mr. Berman spoke about the option of a curved block at the top and that this is a relatively high wall so the re curve will only impact the highest of storms. The waves will still reflect off the face of the wall and erode the beach. There are State guide lines in support of converting vertical structures to rip rap revetments. The adjacent properties should have a conversation which would also involve the Town's portion which is not resilient to storms and even though it looks nice the vertical wall is impractical. Mr. Berman would like to see existing vs. proposed cross sections on the plan. This is an opportunity to improve the area from the accelerated beach erosion due to the straight face of the vertical wall structure.

Public comment: Ms. Fitch read a letter of support from abutter Robert Trezise. Mr. Lizardi will revisit the Commission's comments with the client. Ms. Fitch and Mr. Berman will also organize a site visit. **The applicant requested a continuance to May 4<sup>th</sup>.**

- 3) **DEP File Number: SE7-2232, 17 Scotch House Cove, Bourne, Lawrence R. Coen, Jr. c/o Bracken Engineering, Inc., proposed project:** To construct a permanent salt marsh boardwalk,

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with a seasonal pier, ramp and float. The work will take place within a V flood zone and on or within 100 ft. of other coastal wetland resource areas. **Continued from 3/16/2023.**

Zac Basinski PE, Bracken Engineering Inc. represented the project on behalf of the applicant. Mr. Basinski summarized the shellfish survey conducted by Brad Holmes of ECR. ECR's shellfish and eelgrass survey revealed that the existing shellfish on the site do not meet the Town of Bourne's standards for commercial or recreational value. ECR's eelgrass survey confirms the presence of eelgrass springs (approx. 5% to 20% ocean floor coverage) within/near the project area. The proposed ramp and float project could be designed, constructed and installed to avoid adverse impacts to shellfish habitat, eelgrass and wetland resource areas. The proposed seasonal section of the dock will extend 100 LF beyond the seaward edge of the salt marsh. Seaward of the salt marsh, the footprint of the dock system is approximately 479 SF. Each fall the seasonal portion will be removed and stored upland, outside of the flood zone. The dock system is proposed in a north to south orientation, deflected approximately 10 degrees off north bearing. The dock's orientation shall reduce shading effects and promote light penetration per Department of Marine Fisheries Environmental Recommendations for Small Docks and Floats. The proposed project is located within Salt Marsh, LSCSF, Land Containing Shellfish, Coastal Beach/Tidal Flat, and Land Under Water. Appropriate measures are proposed to minimize adverse effects and prevent erosion and migration of sediment that may otherwise impact resource areas. The walkway will allow for safe access to the waterway while preventing damage to the salt marsh.

Agent comment: Ms. Fitch said potentially they might condition the Order to have a diver go out in May to check if any sprigs are present and if they found eelgrass would they pivot the float 90°. Ms. Fitch asked for the construction process and Alternatives Analysis to be included in the revised narrative. They are waiting on the DMF letter in regards to ECR's survey. The recommended walkway to be the height: width ratio of 1.5:1. DEP has a 1:1.

Public comment: The abutters to the property were happy with the positive communication from Mr. Coen but were concerned about the estimated height and the aesthetic look of properties along Scotch House Cove going forward with new docks being approved.

Mr. Palumbo clarified that the Commission approves the height based on environmental purposes to protect the salt marsh and not for aesthetic purposes. Ms. Fitch further explained the boardwalk height to width ratio is to allow sunlight to reach where the vegetation is growing below the pier. **The applicant requested a continuance to April 20<sup>th</sup>, 2023.**

- 4) **DEP File Number: SE7-2230, 490 Scraggy Neck Road, Cataumet, William Murphy, NW Holdings, LLC c/o Cape & Islands Engineering, Inc. Proposed Project:** The installation of a proposed seasonal ramp and bottom-anchored float. The work will take place within a V flood zone and wetland resource areas. **Continued from 3/02/2023 & 3/16/2023.**

*The Commission only had three (3) voting members on this matter. Due to not having a quorum the applicant has requested a continuance to April 20<sup>th</sup>, 2023.*

- 5) **DEP File Number: SE7-2227, 122 Wings Neck Road, Pocasset, Mary Vendice c/o Zenith Consulting Engineers, LLC Proposed Project:** The installation of a new pier, ramp and float. The pier is to be constructed out of lumber and flow thru decking within the V flood zone and within wetland resource areas. **Continued from 3/02/23 & 3/16/2023.**

Jamie Bissonnette from Zenith Consulting Engineers, LLC represented on behalf of the applicant. The last time they presented the extent of the salt marsh growing towards the water was discussed. They have updated the salt marsh delineation on the plan as requested by the



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Commission. The two sections for the structure will be a permanent post for the elevated walkways and the removable section is a (4) 4x4 squares. DMF would like to see the pier elevated to a 1.5:1 ratio. To eliminate confusion and any further mowing of the salt marsh, a permanent post and rail fence with signage will be installed.

Agent comment: Ms. Fitch explained grading and decking are proposed here to reduce the impact to salt marsh production. DMF conducted two studies regarding the effects of shading and salt marsh growth. The study indicated a 1.5:1 ratio reduced shading and marsh loss, relative to the typical 1:1 height to width ratio for both traditional plank decking and graded decking. Graded decking alone did not reduce shading impact or associated marsh loss and as a result graded decking should not be used as a substitute for adequate height above salt marsh vegetation. They recommend a 4.5 ft. minimum height clearance or reduce the width to maintain that 1.5:1 ratio across the full extent of the marsh.

The Commission and Agent discussed different options to meet the recommended ratio with Mr. Bissonnette. Mr. Bissonnette will revise the plans and consult with his client.

No public comment. **The applicant requested a continuance to April 20<sup>th</sup>, 2023.**

*Mr. Palumbo took over as chair.*

#### **REQUEST TO AMEND THE ORDER OF CONDITIONS**

- 1) **DEP File Number: SE7-2177, 2 Kendall Rae Place, Buzzards Bay, CMP Development LLC c/o Craig N. Hartwell, Esq. Proposed Project:** To amend the December 8, 2021 Order of Conditions for the construction of a mixed use residential and retail development including two buildings, parking, utilities, and other amenities. Project was modified during Planning Board process. The work will take place within an AE flood zone.

Craig Hartwell Esq. represented on behalf of CMP Development, LLC and was joined by one of the principles, Ryan Correia. Since the original Order was issued on 12/08/2021, they have gone through the Planning Board's review process which also included the Design Review Committee, Sewer Commission, and Buzzards Bay Water District review. There was also a peer review in July 2022 by Environmental Partners. Taking all of that in totality, they have updated the plan to present and Amend the Order of Conditions.

#### **Key Points:**

- Significant reduction of building size. Reduced down to 167 units.
- Buildings have been recited further away from the water.
- 10 % reduction in impervious surface.

Agent comment: Ms. Fitch said because it's reviewed under Land Subject to Coastal Storm Flowage there are no performance standards. She was happy to see the reduction in impervious service. She will talk with them about the vista pruning in the parking lot which is a different parcel.

Public Comment: Alan Metcalf of Mass Maritime Academy asked to see the updated plans.

Motion made to close the public hearing by Ms. Butler and seconded by Mr. Scanlan.

Roll call: Ms. Butler-yes, Mr. Scanlan-yes, Mr. Berman-yes and Mr. Palumbo-yes.

Motion to accept the plans made by Ms. Butler and seconded by Mr. Scanlan.

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Roll call: Ms. Butler-yes, Mr. Scanlan-yes, Mr. Berman-yes and Mr. Palumbo-yes. Chm. Gray-abstained. **Motion carried. 4-0-1.**

Agent comment: Ms. Fitch said similar to what the Town did for the Hampton Inn, they will be requesting a vista pruning license on the Town of Bourne property from 2 Kendall Rae to the Canal and a second parcel parking lot owned by the Town but also within the flood zone. Ms. Fitch asked the Commission if they would like to see this under the same RDA or two separate. The Commission preferred the project stay under one RDA filing.

*Chm. Gray back as chairman.*

#### **REQUEST TO EXTEND THE ORDER OF CONDITIONS**

- 1) **DEP File Number: SE7-1889 Off Toby's Island, Bourne, Dan Maurice Proposed Project:** Aquaculture located in Land Under the Ocean and Land Containing Shellfish. The Extension permit for the Order of Condition is set to expire on 4/22/2023.

Dan Maurice requested an extension for the Order of Conditions. He said the aquaculture permitting has gone very well and he has seen an improvement from a water quality perspective, especially relative to Mud Cove. He reported the black Terrapins are back and sit out on their bags which he said has been a great experience.

Agent comment: Ms. Fitch said she has checked in with the shellfish constable and he is pleased with this project and recommended the extension. This project started in 2014 and is almost at 10 years.

Motion made to extend the Order of Conditions for three years by Mr. Palumbo and seconded by Ms. Butler.

Roll call: Ms. Butler-yes, Mr. Berman-yes and Mr. Palumbo-yes and Chm. Gray.  
**Motion carried. 4-0-0.**

Report of the Conservation Agent: Ms. Fitch has AmeriCorps coming out to Carter Beal to do trail markings. The Students at Upper Cape Tech are building benches for Four Ponds Conservation Area and constructing two new signs to replace the old ones at Four Ponds and the Leary Property. The materials were donated by the Southeastern Appalachian club.

Motion made to excuse the absent members by Mr. Palumbo and seconded by Ms. Butler.

Roll call: Ms. Butler-yes, Mr. Berman-yes and Mr. Palumbo-yes and Chm. Gray.  
**Motion carried. 4-0-0.**

Motion made and seconded meeting adjourned 8:54pm.

Audio recorded & minutes edited by Stephanie Fitch- Conservation Agent  
Minutes typed by Amalia Amado- Conservation Secretary II  
Recorded by Zoom platform