

Bourne Conservation Commission (BCC) – Public Meeting Minutes  
May 4, 2023

**Commission members present:** Chm. Robert Gray, Vice Chairman Rob Palumbo, Greg Berman, Sarah Butler, Patrick Scanlan, Paul Szwed, and Susan Weston

**Excused members:** Peter Holmes

**Professional staff in attendance:** Stephanie Fitch- Conservation Agent, Zac Basinski, Jamie Bissonnette, Don Munroe

Chm. Robert Gray called to order the meeting of the Conservation Commission at 6:30 p.m. conducted in person on Thursday, May 4, 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.

**Continuances:**

DEP File No. **SE7-2241**, 45 Harbor Drive, Pocasset continued to 5/18/2023.

DEP File No. **SE7-2172**, 96 Megansett Road, Cataumet continued to 6/01/2023.

DEP File No. **SE7-2236**, 274 Williston Road, Sagamore Beach continued to 5/18/2023.

DEP File No. **SE7-2240**, 8 Heron Lane, Cataumet continued to 5/18/2023.

DEP File No. **SE7-2234**, 18 Lester Avenue, Monument Beach continued to 5/18/2023.

DEP File No. **SE7-2016**, 65 Winsor Road, Cataumet request to Amend withdrawn without prejudice.

**Request for Determination of Applicability: File Number: CC-23-12, 9 Wallace Point Road, Bourne c/o Pdraig and Fiona Duncan.** Mr. Duncan, owner, presented an overview of his project. Mr. Duncan proposed to extend the depth of deck on the seaward side of the house by 2 ft. and extend the width on the seaward side to the full width of the house, plus stairs on the south side and one step to ground level on the north side. This project is in an AE flood zone and within 100 ft. of a wetland resource area.

The Conservation Agent explained that the Commission is familiar with this property. They have come before the Commission for a Notice of Intent for their septic system and to repair their seawall. She shared photos of the property. This is an extension of a deck seaward via cantilevering and adding additional footings to allow the deck to wrap around the house. The coastal bank is already armored, so she did not expect this to impact the stability of the bank. The additional footings will be in an area that is already grass. Will the footings be hand dug? Mr. Duncan replied yes, that the footings will be hand dug.

No public comment.

Motion made by Vice Chairman Palumbo for approval of a Negative Two Determination; seconded by Ms. Butler. All in favor. **Motion carried. 6-0-0.**

Chm. Gray recused himself and Vice Chairman Palumbo took over the reviews.

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

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AUG - 9 AM 10:36  
IN CLERK BUREAU

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The hearing closed on April 20, 2023 and was continued to this meeting to finalize the draft order. Ms. Fitch read the draft order which is to include all general conditions and special conditions pursuant to M.G.L. Ch. 131, S. 40: 1,2,3,7,8,9,12,18,19,20,27,28 &29 and special conditions pursuant to the Bourne Wetland Protection Bylaw Article 3.7: 5,6,7,10,11,12,14,15,16,17,18,19,20,21,22,23,24 & 25.

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

**ASC-1)** Draft of any boat moored at the dock must be of a size that it does not hit the ocean floor at low tide.

**ASC-2)** The contractor shall develop a spill management plan for any hazardous materials that may be employed during work in the buffer zone, 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 maintain an appropriate spill kit at the project site at all times.

**ASC-3)** The use of a floating boom with an attached silt curtain will be discussed during the on-site pre-construction meeting. If deemed necessary, the silt curtain shall be maintained in good operating condition, shall rest on the mud line at all times, and shall have adequate shoreline anchors, tie-downs or other mechanisms to ensure proper position and performance.

**ASC-4)** Shellfish relocation or mitigation must be coordinated with the Bourne Shellfish Constable prior to construction. Written documentation must be submitted to the Conservation Department.

**ASC-5)** The construction methodology outlined in the April 14, 2023 memo that was submitted as part of this application must be followed.

**ASC-6)** Installation of permanent sleeves must not occur during eelgrass growing season which is mid-April to mid-September

**ASC-7)** Installation of salt marsh walkway must occur during salt marsh dormant season which is October through end of March.

**ASC-8)** Any activities requiring a barge must be restricted to 2 hours before and after high tide. The barge cannot anchor in the eel grass growing area as shown on the site plan of record.

Bylaw Conditions Numbers **14-25** above shall continue in perpetuity beyond the limitations of this Order and with the sale of the property to others.

Motion made by Mr. Szwed to accept the final draft order and seconded by Mr. Berman.  
All in favor. Chm. Gray- Abstained. **Motion Carried. 5-0-1**

**Notice of Intent: DEP File Number: SE7-2244, 164 Leeward Rd, Mashnee Island Mark A. Ferland c/o Bracken Engineering, Inc.** The raze and rebuild of a single family dwelling, Title 5 septic upgrade with I/A septic system, landscaping, grading and associated utility work. The work will take place within V flood zone.

Mr. Basinski, PE, representative for the homeowners, explained that the clients initially reached out to add a small addition on the house but FEMA and CZM requirements prevented that. They now propose to demolish the existing structure and elevate up onto concrete piles. The V zone is elevation 18 and top of piles will be elevation 21 with finished floor. All living space is above the BFE in accordance with flood



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zone requirements. They are upgrading the septic system. No coastal banks on the lot, only in Land Subject to Coastal Storm Flowage.

The Conservation Agent stated this is a new house raised on stilts to meet FEMA building code. The garage is lower elevation but has breakaway walls and flood vents. Roof runoff plans are on the second page. She asked if the driveway will remain gravel. Mr. Basinski confirmed that the driveway will remain impervious. Other than that, she wanted to ensure the contractors have a sediment control plan especially for track out onto the main road.

No member comment and no public comments.

Motion made to close the public hearing by Ms. Butler and seconded by Mr. Berman. All in favor. Ms. Fitch read the draft order which is to include all general conditions and special conditions pursuant to M.G.L. Ch. 131, S. 40: 1,2,3,4,5,7,9,10,11,12,14,15,16,18,19,27,28 &29 and special conditions pursuant to the Bourne Wetland Protection Bylaw Article 3.7: 5,6 &7.

**ASC-1)** Track out controls must be in place. Sediment in the street due to construction will lead to a stop-order.

Special Condition Number **15** 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 order to the final by Ms. Butler and seconded by Mr. Berman. All in favor. Chm. Gray- Abstained. **Motion Carried. 5-0-1**

**Notice of Intent: DEP File Number: SE7-2243, 79 Monument Neck Road, Bourne, Richard Kangas, TR-The Kangas Family Trust c/o Bracken Engineering, Inc.** Title 5 septic upgrade with an I/A septic system, landscaping, grading, and associated utility work. The work will take place within an AE flood zone and 100 ft. of wetland resource area.

Mr. Basinski, PE, representative for the homeowners, provided an overview of the project consisting of a new Title V septic upgrade with I/A technology and increased nitrogen reduction to better protect the resource areas. The new system has been cited as far away from the resource areas as possible, 110 ft. from the west and 93 ft. from the east.

No member comment and no public comment.

Motion made to close the public hearing by Ms. Butler and seconded by Mr. Berman. All in favor. Ms. Fitch read the draft order which is to include all general conditions and special conditions pursuant to M.G.L. Ch. 131, S. 40: 1,2,3,5,7,10,12,14,18,19,27 & 28 and special conditions pursuant to the Bourne Wetland Protection Bylaw Article 3.7: 4,5,6,7& 9.

Motion made to move the draft order to the final by Ms. Butler and seconded by Mr. Berman. All in favor. Chm. Gray- Abstained. **Motion Carried. 5-0-1**

**Notice of Intent: DEP File Number: SE7-2242 25 Winsor Road, Cataumet, Ed Nardi of Cresset Development, LLC c/o Bracken Engineering, Inc.** Mr. Basinski PE, representative for the homeowners, provided an overview of the project. This is a removal and upgrade of the existing septic system and replacement in the same location with new I/A septic system technology located in the back

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of the house. This allows for the most environmental protection. The work will take place within a V flood zone and 100 ft. of wetland resource area.

No member comments.

During public comment an abutter asked to clarify the wetland delineations on the plan. Mr. Basinski explained that salt conditions, plant species and water elevations are all defined by a wetland scientist. The Conservation Agent is comfortable with the salt marsh GIS mapping on the plan especially since it is a septic upgrade, which is an improvement over current conditions. They are not building towards the salt marsh and that's why you don't see the flagging like you might in other cases. Mr. Basinski answered that the drip field is 12" below grade. Ms. Fitch said the septic system will be reviewed by the BOH. The abutter said that during a hurricane this property had flooded and the Vice Chairman explained that the septic upgrade is a better system for the environment which is a closed water tight system.

Motion made to close the public hearing by Ms. Butler and seconded by Mr. Berman. All in favor. Ms. Fitch read the draft order which is to include all general conditions and special conditions pursuant to M.G.L. Ch. 131, S. 40: 1,2,3,5,7,9,11,12,14,18,19,21,27 & 28 and special conditions pursuant to the Bourne Wetland Protection Bylaw Article 3.7: 5,6,7 & 9.

Motion made to move the draft order to the final by Ms. Butler and seconded by Mr. Berman. All in favor. Chm. Gray- Abstained. **Motion Carried. 5-0-1**

Chairman Gray returned as Chairman.

**Notice of Intent: DEP File Number: SE7-2227, 122 Wings Neck Road, Pocasset Mary Vendice c/o Zenith Consulting Engineers, LLC.**

Jamie Bissonnette PE, presented an overview of the 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. Mr. Bissonnette explained that Matthew Swift will be the contractor installing the pier. He emailed photos of the construction process to be used for the permanent portion of the pier. The piece of equipment is called a dingo which is a walk behind unit with an auger attached. They will also lay down plywood so the machine will go on top of that. The pier itself will be done by hand.

Plan revisions dated 4/7/2023 per the last hearing included: widening of the walkway by 6", the float moved out 6 ft. further, elongating the gangway and making the float 2 ft. wider. They are still under the 600 SF regulation. The reason for the change is so they could maintain the 30" clearance. By bringing it out 6 ft. they can also eliminate the float stops.

The other changes made to the plan dated 4/28/23 per the client included: water and electric lines down to the pier. A small trench will be dug and used seasonally. They have modified the post and rail fence area to accommodate the storage of the 2 ft. widen float and secure the float by installing posts in the ground to prevent drift away in the event of a flood.

The Conservation Agent felt they still haven't received enough information on how the contractor will build the elevated walkway. She would like to see a written construction methodology with details such as: if they will use swamp mats, how long the build is expected to take, where materials are stored etc. If they are using swamp mats in a salt marsh, they may need a water Quality Certificate from the DEP Division of Water Pollution Control. She would like the construction methodology so it can be referenced in the Order of Conditions.



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A public comment made by Al Quaglieri of 122 Wings Neck Rd. stated that the construction process will consist of the same method used at 594 Circuit Avenue, which was previously approved by the Commission.

Mr. Berman, Commissioner, is reluctant about the proposed utilities in a coastal dune. The utilities are not a necessity for a dock and may change the function of the dune. If there was a break in that water main it could wash out the dune. There are different regulations and performance standards between a coastal beach and a coastal dune. The property transitions from a dune to the beach and then to the salt marsh. Mr. Quaglieri said to mitigate the fear of a water break he could install a valve up near the house; he would leave it off and only turn it on to wash the boat down. Mr. Berman asked if it could be flagged prior to trenching to see if it would run through coastal dune. Mr. Berman agreed to a site visit for the following day. The hearing continued to the next available date May 18<sup>th</sup>, 2023 for written construction methodology and possible plan revisions following Mr. Berman's site visit.

**Notice of Intent: DEP File Number: SE7-2230, 490 Scraggy Neck Road, Cataumet, William Murphy, NW Holdings, LLC c/o Cape & Islands Engineering, Inc.** 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.

The hearing closed on April 20<sup>th</sup>, 2023 and was continued to this meeting to finalize the draft Order. Ms. Fitch read the draft order which is to include all general conditions and special conditions pursuant to M.G.L. Ch. 131, S. 40: 1,2,3,7,8,9,12,18,19,22,27,28 and special conditions pursuant to the Bourne Wetland protection Bylaw article 3.7: 6,7,10,12,14,16,17,18,20,21,22 & 23.

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

**ASC-1)** The conservation mooring must undergo a regular maintenance schedule per the manufacturer's manual and the flexible rode must be removed each winter.

**ASC-2)** All recommendations listed in the DMF letter dated January 18, 2023 and signed by Amanda Davis are to be incorporated into this OOC aside from 25' separation to eelgrass.

**ASC-3)** Draft of any boat moored at the dock must be of a size that it does not hit the ocean floor at low tide.

**ASC-4)** The contractor shall develop a spill management plan for any hazardous materials that may be employed during work in the buffer zone, 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 maintain an appropriate spill kit at the project site at all times.

**ASC-5)** A floating boom with an attached silt curtain must be utilized during in-water work. The silt curtain shall be maintained in good operating condition, shall rest on the mud line at all times, and shall have adequate shoreline anchors, tie-downs or other mechanisms to ensure proper position and performance.

Bylaw Conditions Numbers **14, 15, 16, 17, 18, 20-23** above shall continue in perpetuity beyond the limitations of this Order and with the sale of the property to others.

Motion made by Vice Chairman Palumbo to accept the final draft order and seconded by Ms. Butler. All in favor. **Motion Carried. 6-0-0**

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**Notice of Intent: DEP File Number: SE7-2217, 134 Wings Neck Road, Pocasset, Richard W. Selby c/o Coastal Engineering Co., Inc.** Dune restoration and beach nourishment. Located within a V flood zone and wetland resource areas. Don Munroe with Coastal Engineering Co. Inc., representative for Richard Selby, gave an overview of the project, written construction methodology and the revised plans.

The Conservation Agent said this project has been reviewed multiple times by the Town, DEP and CZM. Most recently, on April 14<sup>th</sup> Don presented to CZM, DEP and Ms. Fitch and she thinks it was a very productive discussion. The revised plan and construction methodology addressed the concerns and incorporated the recommendations from that meeting. The 3:1 slope, decreasing the size of the proposed dune, cutting the high tide bush instead of pulling it, reducing the foot path, working by hand, and using the existing path during construction were all discussed during the meeting.

Ms. Fitch asked if they would be providing a vegetation plan as outlined in the construction methodology. Mr. Munroe said on the revised plan under *earth work* they have listed American beach grass and seaside goldenrod to be planted in an approximately 2,000 SF area and they provided erosion controls and steaking until the materials grow. Mr. Munroe said that's what he thought they were providing as a plan. Ms. Fitch said CZM and DEP want to make sure they match the diversity of the height and species to what is currently there. Mr. Munroe stated that they intend to also plant woody shrubs like beach plum. Chm. Gray said they will be monitoring this for three years and should have the herbaceous material (American beach grass and goldenrod) established first then add supplemental planting in the second year if needed.

No public comment.

Motion made to close by Ms. Butler and seconded by Vice Chairman Palumbo. All in favor.

The hearing was continued to May 18<sup>th</sup>, 2023 to finalize the draft order.

**Request to Amend Order of Conditions: DEP File Number: SE7-2211, 198 North Road, Pocasset, John Sweeney c/o Falmouth Engineering, Inc.** To amend the Order of Conditions SE7-2211 to complete the repair of the existing stone groin using imported larger stones rather than the on-site stones as originally permitted by the Order of Conditions. This project is within an AE flood zone, V flood zone and within 100ft. of a wetland resource area.

Mr. Borselli PE, was not able to attend the hearing. The hearing was continued from April 20, 2023 to finalize the Amended Order.

Motion made to close the Amended Order of Conditions by Ms. Butler seconded by Vice Chairman Palumbo. All in favor. Ms. Fitch read the draft Amended Order which is to include all general conditions and special conditions pursuant to M.G.L. Ch. 131, S. 40: 1,2,3,4,7,8,9,10,12,18,19,20, 26, 27, 28 & 29 and special conditions pursuant to the Bourne Wetland protection Bylaw article 3.7: 5, 6 & 7.

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

**ASC-1)** All dune restoration shall start in the fall except for *Ammophila* which can be planted in the spring.

**ASC-2)** Two monitoring reports on dune restoration are required annually for three years, one in late spring and one in fall. Reports must include a written description of existing conditions and photographs. Any vegetation that does not survive must be replaced.



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**ASC-3)** The reconstructed groin must be in the exact same footprint as what existed prior to the storms.

**ASC-4)** The as-built must include a PE and PLS stamp and be superimposed on existing plans of record, to scale.

**ASC-5)** Proof of Chapter 91 license is required prior to issuance of the COC.

Motion made to move the draft to the final by Ms. Butler and seconded by Vice Chairman Palumbo. All in favor. **Motion carried. 6-0-0.**

**Approval of minutes of 3/02/23 & 3/16/23 meeting minutes.**

Motion made to approve the 3/03/23 minutes by Ms. Butler and seconded by Vice Chairman Palumbo. All in favor. **Motion carried. 6-0-0.**

Motion made to approve the 3/16/23 minutes by Ms. Butler and seconded by Vice Chairman Palumbo. All in favor. **Motion carried. 6-0-0.**

**Report of the Conservation Agent.**

Ms. Fitch gave a brief update on the three articles up for vote at the May 1, 2023 Town meeting.

- Article 14: Notice of Hearings to include certificates of mailing for RDA abutter notification – passed.
- Article 15: ‘Adjoining Land Areas’ revised definition- passed.
- Article 16: Proposed waiver- denied due to questions on how this would impact litigation. The waiver may be reintroduced with further consultation from Town Counsel.

Adjourned 8:28 PM.

Meeting audio recorded and minutes edited by Stephanie Fitch- Conservation Agent.  
Minutes typed by Amalia Amado- Secretary II.