

**Bourne Conservation Commission**  
**Public Meeting Minutes**  
**July 20<sup>th</sup>, 2023**

Chm. Robert Gray called to order the meeting of the Conservation Commission at 6:30 p.m. conducted in person on Thursday, July 20<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, Sarah Butler, Greg Berman, Peter Holmes, Rob Palumbo and Joseph Soares.

**Excused members:** Paul Szwed and Susan Weston

**Professional staff in attendance:** Stephanie Fitch, Conservation agent, Darren Meyer, Jennifer Crawford, Michael Borselli, Mark Dibb and Matthew Watski

**Continuances:**

**DEP File Number: SE7-2241**, 45 Harbor Drive, Pocasset continued to August 3<sup>rd</sup>, 2023.

**DEP File Number: SE7-2254**, 94 Salt Marsh Lane, Pocasset continued to August 3<sup>rd</sup>, 2023.

1. **Request for Determination: File Number: CC-23-21, Eric Dana c/o Meyer & Sons Inc., 129 Leeward Road, Mashnee Island:** To replace a failed septic system with a fully compliant Title 5 septic system within an V flood zone.

Darren M. Meyer representative for the applicant explained that the proposed project is a 2 bedroom septic system upgrade in the velocity zone only, elevation 18. There is no increase in design flow and they have filed concurrently with the Board of Health.

Ms. Fitch said this is a replacement of a cesspool in the velocity zone. Greater than 100' from other wetland resource areas and she had no concerns with the project as proposed.

No member comment.

No public comment.

Motion made by Mr. Holmes and seconded by Mr. Berman for a Negative Two Determination. All in favor. Motion carried. **4-0-0**.

2. **Request for Determination: File Number: CC-23-20, 31 Buttermilk Way, Buzzards Bay, James Morrison.** Remove 14 cedar trees on property line encroaching the house. This project is located in an AE flood zone and within 100 ft. of a wetland resource area.

The home owner James Morrison explained the proposed removal of 14 pine scrubs that are approximately 20-25 ft. tall and 10ft. off the house with a setback of 12ft. to the side property line. The trees encompass utility wires and are parallel down to the water. The abutter limbs the trees on their side that are encroaching. The house is under renovation and they would like to remove the trees and replant something else but they do not have a vegetation plan yet. Photos were shared with the Commission.

Ms. Fitch gave her report, they have an open order of conditions SE7-2205 to raze and rebuild the existing house. The tree removal is within the 50' buffer to the bank but this property has an armored bank, so she was not concerned about stability. They reached out in January 2023 to remove the trees and Ms. Fitch did not feel comfortable providing an administrative approval for so many trees within the buffer to coastal resources and flood zone. She felt that the loss of this many trees may negatively impact

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the area's capacity to slow, detain and filter runoff prior to it reaching the bay. She might recommend conditioning the project to require some sort of mitigation planting, as the area is already so heavily developed and consisting mainly of turf grass lawns, we should be encouraging homeowners to plant trees and native shrubs to better protect the interests of the Act.

No public comment.

Motion made by Ms. Butler and seconded by Mr. Holmes for a Negative Two Determination with conditions of mitigation planting to be discussed with the Conservation agent. All in favor. Vice-chair Palumbo arrived at 7PM. —abstained. Motion carried. **4-0-1.**

**3. Request for Determination: File Number: CC-23-17, 40 Wilson Avenue, Bourne, Honta LLC c/o Zenith Consulting.** Upgrade of an existing failed septic system within an existing landscape area.

William Connelly, EIT with Zenith Consulting represented the project on behalf of the applicant. He said this is a simple upgrade of a failed cesspool on a 7,300 sf. lot, of a 2 bedroom home.

Ms. Fitch gave her report, she said this project is located in an AE flood zone. AE flood zone only, greater than 100' from other resource areas. She have no concerns with the project as proposed.

No member comment.

No public comment.

Motion made by Ms. Butler and seconded by Mr. Holmes for a Negative Two Determination. All in favor. Motion carried. **5-0-0.**

**4. Request for Determination: File Number: CC-23-18, 0 Emmons Road, Monument Beach, And Toby Island Association c/o Jonathan Levitt.** To install a security gate for the Tobey Island resident's community. This project is located in a VE flood zone and within 100 ft. of wetland resource areas.

Jonathan Levitt, president of the Toby Island Association, represented the proposed project on behalf of the Toby Island residents. They have proposed a low profile security gate due to many issues with cars and foot traffic trespassing on private property. He reported there has been vandalism to personal property, physical threats, littering and many residents feel unsafe in their community. In addition, the Bourne Conservation Trust (BCT) was gifted a bulk of conservation land on Toby Island, and is now a Flora and Fauna Habitat Preservation, which is intended for no public access. BCT wrote a letter in support of the proposed gate, by minimizing the uninvited access to the island it will help preserve the fragile ecosystem. The company installing the gate, Walpole Outdoors was also in attendance to answer any technical questions. Ms. Fitch shared an example of the gate. The gate will be installed by two granite pillars which will be hand dug on the shoulder vegetation area. Electric wire will run underground from the pole, where there is already wire in the same location for telephone and electricity. The gate will have an operating system for SOS, fire, police access and battery backups.

Ms. Fitch said that DNR made a comment regarding limited turn around space if someone were to drive down over the wooden bridge accidentally. Mr. Levitt said they put a lot of thought into where to site the gate. They own the bridge and the causeway which shell fisherman are allowed access to; with that in mind, they didn't want to place the gate prior to where the shell fisherman have access, but wanted it to be closer to the bridge so that people would see it when they are coming over. They feel that mitigates the issue. He said the causeway on Toby Island is a one lane, one direction -two direction road. Only one car can go over at a time. The access is for the off island traffic, and since there has been a road on Toby Island people have had to back up off the causeway from a lot further than the proposed gate and there



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hasn't been problem with it. Mr. Levitt said it really is the same as it ever was and won't change because there is a gate there. The construction would occur in October when there is the least amount of traffic and the Osprey have migrated. The residents will have a transponder in their car which will also be provided to DPW. There are actually three options to enter the gate, key pad code, call box and emergency sirens.

No public comment.

Motion made by Mr. Holmes and seconded by Mr. Szwed for a Negative Two Determination. All in favor. Motion carried. **5-0-0.**

**5. Request for Determination: File Number: CC-23-19, 18 Winsor Road, Cataumet, John LoMedico.**

Post-facto filing of an upgrade to an existing boathouse. This project is located in a VE flood zone and within coastal wetland resource areas.

The homeowner John LoMedico represented the post facto approval of his boat house renovation. Mr. LoMedico shared photos with the Commission, and explained the boat house was built in 1906 by a previous owner. The renovation started with replacing the roof with cedar shakes to match the house. The windows were replaced next, everything kept in the same footprint and painted with the same original color. The deck was about 90% done when the building inspector put a stop work order for unpermitted work in a velocity zone and within 100' of a wetland resource area. There are 9 posts on the outside of the deck, which needed to be fixed for insurance hazard reasons, and a staircase was relocated from the marsh side back to the house side. Underneath 4 posts were replaced with cement footings approximately 18-24" deep. Mr. LoMedico apologized for the unpermitted work.

Ms. Fitch gave her report and said this started when the building inspector approached her regarding work being done without a permit. A violation letter was sent in May and the homeowner was great about responding timely. The boat house was restored in the same footprint except for posts, which were replaced in the same location but went from 4x4 to 6x6. The main issue that jumped out to her was the cobble that was placed along the eroding edge of the salt marsh. She said it would have been nice to see this upgraded to improve conditions on the salt marsh. They discussed removing the rocks and coming up with a vegetative fix.

Chm. Gray asked if the original boat house was below mean high water (MHW) and asked if there was a Chapter 91 license. Mr. LoMedico said yes he can provide the license number for the record. Chm. Gray explained that this is historic and is licensed, built prior to the wetlands protection act. The remodel was done well except for the fact that nothing can grow underneath. They discussed possible options for decking to allow light penetration. He would like to see the focus on the rocks with the disturbance to the eroded marsh and front area. He should contact an ecological restoration designer to come up with a solution and a Notice of Intent would need to be filed for the restoration project. Mr. LoMedico plans on investing in this restoration for long term improvement. The applicant requested a continuance to August 17<sup>th</sup> pending the search for a restoration firm. No public comment.

Motion made by vice-chair Palumbo and seconded by Mr. Holmes for a continuance. All in favor. Motion carried. **5-0-0.**

**1. Notice of Intent: DEP File Number: SE7-2252, 1 Tern Way & 534 Scraggy Neck Rd, Cataumet, RDC Realty Trust and JMC 2013 Realty Trust c/o Cape & Islands Engineering/ Crawford Land Management.** Proposed invasive species land management plan. The work will take place within a VE flood zone and 100 ft. of a wetland resource area. **Continued from 6/15/2023.**

Jennifer Crawford with Crawford Land Management said they have received their letter from Natural Heritage. The comments addressed: A botanical survey needs to be conducted, they have reached out to

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Mike Ball of Marsh Matters Environmental to do the survey, and he will need to be pre-approved by NHESP for that species to fulfill that condition. The stalk piles for construction access were also addressed and clarified with the reviewer, nothing further is needed. They requested that they substitute a few of the species on the list of both seed and plants; they have done that and submitted revised plans along with a transmittal of what was substituted. Additional information on the sieve analysis samples was submitted. A site visit was made to take a look at dune delineations and was resolved. Ms. Fitch asked if any tree pruning was intended for long term. Ms. Crawford's response was that one of the overarching goals of the project was to alleviate by restoring with a native plant that doesn't require it. However, on the costal bank there are a number of juvenile trees there that are not really a view issue, and she does not anticipate in that location with the salt spray and wind that they would get overly large. Knowing that erosion is frequent in that area, it would be long term beneficial if they were able to maintain them at a smaller stature, just simply for future views down the road. They bigger they get if they do wind throw may cause some destabilization to those coastal bank systems and generally speaking she doesn't believe large trees should be growing on coastal banks because of erosion issues.

Ms. Fitch gave her report she did a site visit with Greg and Sarah, and is fine with delineations as presented. Ms. Fitch received the NHESP letter. They are required to do a NE Blazing Star survey prior to start of work. ASC for maintaining the trees below top of CB on 1 Tern way to be granted in perpetuity – we need an exact height

Public comment: John York asked what the species of trees were on the costal bank. Ms. Crawford replied Eastern Red Cedar, Black and Scarlet Oak.

Motion made to close the public hearing by Mr. Palumbo and seconded by Mr. Holmes. All in favor.  
Motion carried. **5-0-0.**

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, 7,8,10,12,14, 27 & 28 and special conditions pursuant to the Bourne Wetland Protection Bylaw Article 3.7: 6 & 7.

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

**ASC-1)** A report with photos documenting the invasive plant removal, restoration plantings, and beach nourishment must be submitted to the Conservation Department annually for three years.

**ASC-2)** Beach nourishment cannot occur until sieve analyses have been performed and a report has been reviewed by the Agent. The source of the sand must also be approved by the Agent prior to nourishment.

**ASC-3)** All conditions included in the Natural Heritage and Endangered Species Program (NHESP) letter dated July 3, 2023 for NHESP File No. 23-7267 are to be included in this OOC. No work may begin until the botanical survey is conducted and further review by NHESP is complete. The final NHESP approval must be submitted to the Conservation Department prior to start of work.

**ASC-4)** Herbicide application must be performed by a licensed Massachusetts herbicide applicator.

**ASC-5)** Permission to maintain the trees below the Top of Coastal Bank on the 1 Tern Way property at a height of 15'-20' is granted in perpetuity. Pruning must be done with handheld equipment only. No heavy machinery is permitted on the coastal bank or coastal beach for the purpose of tree pruning. Pruning must be done by a licensed arborist.

**ASC-5** above shall continue in perpetuity beyond the limitations of this Order and with the sale of the property to others.



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Motion made to move the draft to the final by Mr. Palumbo and seconded by Ms. Butler. All in favor.  
Motion carried. **5-0-0.**

- 2. Notice of Intent: DEP File Number: SE7-2255: 74 South Road, Pocasset, James & Patricia Filbin c/o Falmouth Engineering, Inc.** To install a pile supported residential pier, ramp and float. The work will take place within an AE flood zone, VE flood zone and within coastal wetland resource areas.

Michael Borselli representative from Falmouth Engineering, Inc. shared the plan on the screen, he explained the resource areas and that the homeowner Mr. Filbin has a mooring 112ft. away from the proposed float. He makes use of an existing outhaul which he accesses a dinghy to the mooring. The proposed pier would eliminate the outhaul and eliminate foot traffic over salt marsh. The company Megladon did an eel grass survey in September of 2022, with patches found 36 ft. away from the float. They have designed the pier to be in compliance with the current regulations. The location is adjacent to the stone groin, so it does not add to undisturbed areas. Mr. Borselli explained the dimensions of the proposed pier, from the walkway to a ramp then down to the float everything is pile supported. Everything is designed to be removed except the section that crosses the salt marsh, so that there is limited seasonal disruption during annual removal of that part of the structure. Mr. Holmes asked to clarify that the pilings at the end of the structure are designed to be removed. Mr. Borselli said they are 4x4 posts and there will be a 6 inch galvanized steel sleeve that the posts will be inserted in and removed each season. The galvanized steel pipes will be kept in the same place and can be capped to keep sediment out in off season. It is designed to be hauled up by hand to the upland and to where they will be stored adjacent to an existing garage outside of the velocity zone. One provision they did not catch was that if the float is stored within 50 ft. of eel grass, there is a requirement to provide 4 ft. separation from the bottom substrate and they would be able to retrofit with float stops on a revised plan. They are still waiting a response from Natural Heritage because they are within priority habitat.

Ms. Fitch gave her report and said the site plan shows an area of eelgrass 36.1' away from the float, therefore you will need float stops to maintain 4' distance from the bottom. Which was addressed. She asked if they looked at putting the pier over the groin. Mr. Borselli said originally they looked at making use of the existing stone groin and build over it. Beacon Marine didn't advise that because of the boulders and the uncertainty of what might be under it. The concern was that they wouldn't get penetration with the steel pipes. The next best thing was to be directly adjacent to it. Chm. Gray asked if either of the two groins were licensed. Mr. Borelli said it was not licensed but that if the pier was voted favorable they will apply for a license at the same time. Ms. Fitch would like the labeling corrected of the resource areas on the plan. Walkway over salt marsh meets the 1:1 as required by the Commission. My site visit yesterday showed at least 7 moorings around the end of the groin. BWR 1.16(1)d.6.c. asks for moorings within 300'. Mr. Borselli said the Harbor Master has a map of all the moorings and he could compile a plan to exhibit the moorings closest to 300' of the dock for the record. Outhaul mooring will be removed which is nice since it is close to the larger area of eelgrass. Ms. Fitch would like to see the walkway and stairs staked out and ideally a buoy in the water demarking the end of the proposed pier. Still waiting for NHESP.

No public comment. At the request of the applicant continued to August 3<sup>rd</sup>, 2023.

- 3. Notice of Intent: DEP File Number: SE7-2172, 96 Megansett Road, Cataumet, Cape Club Building, Inc. c/o Cape & Islands Engineering, Inc.** Construction. Licensing and maintenance of an access ramp leading to a walkway, pier, ramp and float in the waters of Squeteague Harbor. The proposed work is located within coastal wetland resource areas, within a riverfront and in a VE flood zone.



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Chm. Gray first explained that this application was filed over a year and a half ago and presently the Commission did not have a quorum of the original members that could issue a decision on this. Pursuant to the Mullins rule and based on the advice of Town Counsel, the public hearing for this project was to be presented as if it were the first time. This public hearing was reopened so the members that are new to the Commission can address the proposed project. The other portion of this matter was the public comment and anything submitted in writing should be identified now as part of the new public record. Verbal statements should also come back to be placed on the record as this hearing would not be closing tonight.

Mark Dibb, PE representative from Cape & Islands Engineering explained that they also re-notified the abutters. He explained the parcel is the former Animal Rescue League, with three structures currently on it and the proposed pier is now located in the area shown on the plan in the velocity flood zone. The existing conditions were identified along with the resource areas. There is an existing three bedroom dwelling that is proposed to be demoed and replaced with a deck structure 24 X 24 and that will be the beginning portion of the pier project. They have outlined a bullet list on the plan requirements to design the pier to meet the Town of Bourne regulations. They have determined to get the best waterbody measurement for 1/5 length, that this particular waterbody was measured mean low to mean low water. They have identified the walkway area and outer limits of salt marsh. The elevation has been designed to achieve 6 ft. over a salt marsh as well as providing 5 ft. for public access at mean high water to meet the requirements of the State. The current location is a depth of 2.1 ft. of water. They provided a shell fish study and there was also no eel grass in the area. The study was determined not significant and they will meet the minimum 18in separation from the float to the ground at mean low water. One item to be addressed is the relocation of an existing outhaul mooring to be relocated outside the required 100' setback with permission from that owner. There is also another mooring to be relocated which at this time they do not have written permission to relocate this mooring. Mr. Dibb thought an appropriate condition would be to get an as built of the moorings before construction and after the Chapter 91 license is approved because even with written permission there is no guarantee of who will own the moorings in another 9-12 months plus. There was a site visit with Ms. Fitch and the cove master who measured a depth of 44 inches, which there weren't concerns of navigation but raised concerns of meeting the regulations of the proposed pier.

Ms. Fitch gave her report where she confirmed the cove master was out there in a Kayak and reiterated that this was not considered a navigational channel, they found where the deepest part of harbor is and they talked about the navigation with that but they do not have to meet the 100' requirement to a navigational channel part of the regulations. Ms. Fitch reviewed the deck spacing where there was a small discrepancy and wanted to see a revised plan that she will work out with Mr. Dibb. Chm. Gray asked how they resolve the issue of the moorings shown on the plan that are within a 100'. Ms. Fitch was not comfortable with that and wants to see that requirement met. The Commission has worked really hard to come up with that 100' setback and they have met with the Shore and Harbor Committee many times and respect to other departments as well; where she didn't like the idea of issuing the Order of Conditions assuming the mooring location will get changed. Chm. Gray would also like DNR to look over the shellfish calculation sheet as part of the record before they close. Vice-chair Palumbo asked about the deck proposal where the pier would start, which it was clarified that is where the existing house is and that part of the plan falls under the other Order of Conditions SE7-2171. Mr. Berman said the angle of the deck is a bit longer than it has to be to meet the regulations over salt marsh and would like to see decking for light penetration to make up for the expanded footprint. Ms. Fitch also clarified that the 1/5 length over waterbody is measured mean low water to mean low water. The definition states the boundary from mean low to mean low waterways such as rivers under the WPA is defined as the mean annual low water level. That was looked at again with the harbor master and cove master.

Public comment: John York of 20 Squeteague Harbor Road, Cataumet wanted clarity on the purpose of the new hearing vs. the old hearing. Chm. Gray explained the purpose of this is relative to a court case and is a



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provision within that court case. The Mullins rule advises Commissions, Planning Boards and other Town entities that if a particular matter has gone on for an extended period of time and as projects are coming to a decision, that a quorum of the members voting have been present at all of those hearings. You are only allowed to miss one hearing and required to review recorded audio/visual, material and minutes and are required to fill out a form to attest the review of the hearing that you missed. The problem with this application is that it has gone on over a year and a half and there were members that have come and gone in that time. The Commission does not have four members that were originally present and now has to be restarted. Chm Gray also explained further that any comments previously submitted that want to be apart of this record should be acknowledged at this time. Chm. Gray also said please refer to the dates of any emails for the record. He also said to allow the opportunity for additional comments they will not close tonight. Mr. York also wanted clarity the abutter notification process for this which the Engineering will provide later and a notice was also published in the newspaper. Mr. York also wanted to confirm that there were no waivers for dock applications. Ms. Fitch confirmed there are no waivers. Mr. York said in the bylaw that there is a 100' setback to a navigational channel and in the absence of a navigational channel there is wording to be interpreted. In the regulations it states to show on the plan the distance to the center line of channel if no customary channel exists.

Joe McGurl resident of Cataumet questioned discrepancies with the water depth measurement on the plan and the size of the proposed dock. He also questioned the definition of a navigational channel and believed that it is used as a navigational channel.

Mr. Berman said there is not a deep cut as far as a navigational channel, which doesn't mean there is no navigation happening there.

At the request of the applicant the hearing was continued to August 3<sup>rd</sup>.

4. **Notice of Intent: DEP File Number: SE7-2171**, 96 Megansett Road, Cataumet, Cape Club Building, Inc. c/o Cape & Islands Engineering, Inc. Construction. To amend the existing Order of Conditions DEP file number SE7-2171 under local bylaw only. The proposed project includes the demolition and reconstruction of single-family home with additional construction of a pool and tennis court. The proposed work is located within 100 ft. of a wetland resource area, within 200 ft. of a riverfront and in an AE flood zone.

Matthew Watski attorney for the applicant, gave an overview of the project. He explained the original Order did not approve some aspects of the project which they appealed to DEP and at the local bylaw with Barnstable Superior Court. Site visits were made with DEP, CZM and the Bourne Conservation Department. A MEPA review was required which included a detailed review and they required an alternative analysis. The house and the tennis court were relocated, along with specific concerns of the pool and patio; all addressed in the new MEPA preferred alternative plan. They then submitted that to DEP and received a Superseding Order of Conditions. Now they have come back with the same MEPA plan to Amend the local Order under the Bourne bylaw. They are seeking an Amended Order of Conditions on the local level to resolve the ligation and the new MEPA plan to be the governing document for the project.

Mark Dibb PE with Cape and Islands Engineering gave an overview of the proposed project. He explained the relocation of the house, tennis court, pool and patio up off the coastal bank area. Also included in the new plan was minor grading of a roadway which will be fully revegetated. There is a proposed open area deck, also included is a 5/1 mitigation area on the plan which will include revegetation of significant portions of the river front area, that are very sparse right now and impervious surface restored into vegetated area. The septic system will also be upgraded to an I/A system. There is an area of clearing with an invasive species management plan below that area and even with that clearing they are creating a natural buffer that exceeds the WPA regulations. He explained 70ft. is considered average and after their proposal it will be 110 ft. of vegetated buffer, all provided in the MEPA documentation. A Conservation Restriction will be permanently imposed shown on the plan in a red outline. An application process takes place and can take up to a year to get approved which could be



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included in the special conditions of the order, the proposed CR area is 1.1 acres out of the total 3.1 acres on the parcel.

Chm. Gray asked if the plan presented tonight was the same plan approved by DEP with no deviations.

Mr. Watski confirmed it is the same plan approved by DEP with a final revision date of 9/13/2022.

Mr. Berman asked if the boundary for the CR gets marked which Mr. Watski said was a requirement.

A member of the public asked about the area where the trees will be cut and Mr. Dibb explained it will be managed as a meadow and cut roughly once a year. Mr. Dibb was asked why the trees were being cut back in that section and he answered that was part of the tradeoff for not touching the bank providing a very thorough natural buffer to the riverfront area and reviewed in the MEPA process. John York had concerns over the tree cover area on the riverfront area. Chm. Gray explained that this project was issued a Superseding Order of Conditions with CZM input and MEPA review and because they are in litigation they met with Town Counsel which was required under the bylaw. The bottom line is the MEPA preferred alternative plan presented tonight addressed most of the concerns from the Commission and is the best they will get with all the provisions of the bylaw without further litigation.

Motion made to accept the referenced approved plan by the State to amend the order of conditions under the local bylaw. Motion moved by Ms. Butler and seconded by Mr. Palumbo. All in favor. Motion carried. **5-0-0**.

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, 7,8,10,11,12,14,16,17,18,19,21,26,28, 27,28 &29 and special conditions pursuant to the Bourne Wetland Protection Bylaw Article 3.7: 4,5,6, 7 &9.

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

**ASC-1)** You shall grant to the Conservation Commission, under authority of G.L. c. 40, § 8C, a restriction in perpetuity and exclusively for conservation purposes, on a 1.18 area of land more particularly depicted as the "Conservation Restriction Area" on the plan entitled "Conservation Restriction", dated June 23, 2023, in a form satisfactory to the Commission and the EOEEA, and shall record the same in the Barnstable County Registry of Deeds. The Applicant shall file an application with EOEEA seeking approval of the CR promptly following the Commission's approval of the draft CR, will diligently pursue EOEEA approval of the CR form, and will have the finally approved and signed CR recorded in the Registry within 60 days of its final approval. Notwithstanding and independent of the foregoing restriction, you are prohibited under this Order of Conditions from using said area of land for any purpose other than conservation purposes. No Certificate of Compliance may be issued for this amended local Order of Conditions until the CR has been recorded.

**ASC-2)** This OOC does not include the pier as presented on the site plan with revision date September 13, 2022. The pier, ramp and float must be approved under a separate NOI filing.

**ASC-3)** All special conditions listed on page 13 of the Superseding Order of Conditions issued by MassDEP for SE7-2171 are to be included in this OOC.

Motion made to move the draft to the final by Mr. Palumbo and seconded by Mr. Holmes. All in favor. Motion carried. **5-0-0**.



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**Request to Extend Order of Conditions**

Jack Vaccaro representative for the applicants, requested to extend the project for the homeowners for three years. The reason for the extension is to continue nourishing as far into the future as they can get. At the request of Ms. Fitch they submitted a stamped as-built plan, notice to Natural Heritage of the extension request which NHESP approval is good for 5 years expiring in 2025 and a construction compliance report. Mr. Vaccaro also shared before and after photos.

- 1) **DEP File Number: SE7-2114**, 8 Indian Trail/ 0 Crab Rock Way, Sagamore Beach Gregory Cummings. Request to Extend Order of Conditions issued on 9/11/2020. Proposed Coastal Stabilization of Coastal Bank within a Velocity Zone and within a 100 feet of a wetland resource area.  
Motion made to grant the three year extension for SE7-2114. All in Favor. Motion carried. **5-0-0.**
- 2) **DEP File Number: SE7-2115**, 10 Indian Trail/ 0 Crab Rock Way, Sagamore Beach John & Valerie Goulos. Request to Extend Order of Conditions issued on 9/04/2020. Proposed Coastal Stabilization of Coastal Bank within a Velocity Zone and within a 100 feet of a wetland resource area.  
Motion made to grant the three year extension for SE7-2115 All in Favor. Motion carried. **5-0-0.**
- 3) **DEP File Number: SE7-2116**, 12 Indian Trail/ 0 Crab Rock Way, Sagamore Beach Applicant: Phillip Bornstein. Request to Extend Order of Conditions issued on 9/11/2020. Proposed Coastal Stabilization of Coastal Bank within a Velocity Zone and within a 100 feet of a wetland resource area.  
Motion made to grant the three year extension for SE7-2116. All in Favor. Motion carried. **5-0-0.**
- 4) **DEP File Number: SE7-2117**, 18 Indian Trail/ 0 Crab Rock Way, Sagamore Beach Applicant: Dr. Gary Galovic. Request to Extend Order of Conditions issued on 9/11/2020. Proposed Coastal Stabilization of Coastal Bank within a Velocity Zone and within a 100 feet of a wetland resource area.  
Motion made to grant the three year extension for SE7-2117. All in Favor. Motion carried. **5-0-0.**
- 5) **DEP File Number: SE7-2118**, 22 Indian Trail/ 0 Crab Rock Way, Sagamore Beach Applicant: Jim & Nancy Stoll. Request to Extend Order of Conditions issued on 9/11/2020. Proposed Coastal Stabilization of Coastal Bank within a Velocity Zone and within a 100 feet of a wetland resource area.  
Motion made to grant the three year extension for SE7-2118. All in Favor. Motion carried. **5-0-0.**
- 6) **DEP File Number: SE7-2119**, 28 Indian Trail/ 0 Crab Rock Way, Sagamore Beach Applicant: Joseph Silva. Request to Extend Order of Conditions issued on 9/11/2020. Proposed Coastal Stabilization of Coastal Bank within a Velocity Zone and within a 100 feet of a wetland resource area.  
Motion made to grant the three year extension for SE7-2119. All in Favor. Motion carried. **5-0-0.**
- 7) **DEP File Number: SE7-2120**, 30 Indian Trail/ 0 Crab Rock Way, Sagamore Beach Applicant: Glenn & Cynthia Sparr. Request to Extend Order of Conditions issued on 9/11/2020. Proposed Coastal Stabilization of Coastal Bank within a Velocity Zone and within a 100 feet of a wetland resource area.  
Motion made to grant the three year extension for SE7-2120. All in Favor. Motion carried. **5-0-0.**



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**Request for Certificate of Compliance**

- 1) **DEP File Number: SE7-0346**, 9 Massasoit Ave Ext, Pocasset c/o Walter Briscoe. Request for Certificate of Compliance for Order of Conditions issued August 07, 1985. To replace existing sea wall located within 100 ft. of a wetland resource area and in a Velocity flood zone.
- 2) **DEP File Number: SE7-0897**, 9 Massasoit Ave Ext, Pocasset c/o John Briscoe. Request for Certificate of Compliance for Order of Conditions issued May 12, 1992. To construct a new cottage to be elevated on concrete pilings and upgrade of septic system. The project is located within 100 ft. of a wetland resource area and in a Velocity flood zone
- 3) **DEP File Number: SE7-0946**, 9 Massasoit Ave Ext, Pocasset c/o John Briscoe. Request for Certificate of Compliance for Order of Conditions issued January 11, 1993. To construct a new cottage to replace damaged cottage from Hurricane Bob; cottage to be elevated on concrete pilings. The project is located within 100 ft. of a wetland resource area and in a Velocity flood zone.

Ms. Fitch made a site visit on 7/19/2023. All three of the projects requiring COCs are from over 30 years ago. All she could say was that the cement wall is still there, although failing in some places, and the elevated cottage appears to be about 30 years old. She recommended issuance of the COCs.

Motion made to issue all three of the COCs by Mr. Palumbo and Seconded by Mr. Holmes. All in favor. Motion carried. **5-0-0**.

- 4) **DEP File Number: SE7-2104**, 9 Park Street, Pocasset c/o Timothy Jones, Trustee. Request for Certificate of Compliance for Amended Order of Conditions issued on December 22, 2021. Raze and reconstruction of an existing dwelling and installation of a new Title V septic system, additional landscape & restoration/mitigation; modification to proposed pervious driveway with proposed cobble apron & wheel tracks. This Project is within an AE flood zone and within 100 feet of a wetland resource area.

Ms. Fitch made a site visit on 7/19/2023 and recommended issuance of the COC.

Motion made to issue all three of the COCs by Ms. Butler and Seconded by Mr. Holmes. All in favor. Motion carried. **5-0-0**.

➤ **Report of the Conservation agent:**

Continued discussion from 6/15/23 of 38C Cottage Row- Hideaway Village.

Motion made to accept and issue letter dated 7/20/23 by Ms. Butler and seconded by Mr. Palumbo. Mr. Holmes-abstained. Motion Carried. **4-0-1**.

Ms. Fitch updated the Commission on vandalism of rocks in Patuisset.

Fact sheet for MMA dredging- Ms. Fitch handed out public outreach information to the Commission.



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Discussion and possible vote on Conservation representative for the Wastewater Advisory Committee.

Motion made and seconded to appoint Mr. Holmes as representative to the Wastewater Advisory Committee for another year. All in favor. Motion carried. **4-0-0**.

Chuck Katuska will be the interim Conservation Agent while Ms. Fitch is on maternity leave.

- Vote to excuse absent members. Motion made to excuse absent members by Mr. Berman and seconded by Mr. Palumbo.

Adjourned 10:13PM

Minutes typed by Amalia Amado- Conservation Secretary II  
Audio recorded by Conservation Department



