

CONSERVATION COMMISSION MINUTES

Thursday, January 23, 2014 ~ 7 pm ~ Lower Conference Room, Bourne Town Hall

Chm. Gray called meeting to order at 7:00 pm and explained the Commission's procedure pursuant to the Wetland Protection Act M.G.L. c. 131, s. 40 and the Bourne Wetland Protection Bylaw Article 3.7.

Note: Chm. Gray addresses the audience in regards to recording a public hearing. If anyone wishes to record a public meeting, they are free to do so, however, it must be known by the Board and the public. All cell phones are to be placed on vibrate or turned off during the meeting.

Members present: Chm. Bob Gray, V. Chm. Martha Craig Rheinhardt, Betsy Kiebal, Rob Palumbo, Susan Weston, and alternate member Thomas Ligor

Members Absent: Peter Holmes and Paul Lelito

Notices of Intent:

1) Applicant: Daniel & Maureen Flatley

DEP File Number: SE7- 1882

Representative: Holmes and McGrath, Inc.

Project Address: 9 Gull Lane, Cataumet (Scraggy Neck)

Proposed Project: Demolish and remove existing dwelling and construct single family home with attached garage, Title V septic system, utility installation, selective vista clearing and maintenance, and all associated clearing, grading, and landscaping within AE and VE Flood Zones and within 100 feet of a Wetland Resource Area

Raúl Lizardi-Rivera representing: proposing to demolish existing house and construct new house with a new Title V to the north of the property closest to the cul-de-sac. The only work proposed within 100 FT of the beach is vista pruning to take advantage of the site view from the dwelling. Keeping vegetation to a minimum of 3 FT in height. All roof run off is directed to drywells. Driveway is made of impervious material. The house was built in 1968.

Ligor – asked how many trees were being removed and if it was necessary. A total of 28 trees are to be cut down which are cedar trees with no plans to replant or spade at this point.

Brendan Mullaney – has no major concerns with the actual house as it is a substantial distance from the resource area and the new septic is an improvement over existing conditions. There have been trees along the footpath already cut and removed, noted during a recent site visit. He doesn't see a need to take down all the trees within the 100 FT buffer zone to the coastal beach. It is the discretion of the board to allow all removal.

Chm. Gray – suggested to the applicant the nine (9) remaining cedars be moved outside the line of sight. The applicant is okay with that. Spading the trees was suggested also. Applicant will replace the trees if necessary as spading will disrupt the area.

Brendan Mullaney – the trees vary in size between 4-6 FT and 8-10 FT. Some are difficult to spade and would recommend to replant.

No further board comment. No public comment.

Palumbo moved and seconded by Weston to close the public hearing. Unanimous vote.

***Brendan Mullaney – Draft Order of Conditions: All General Conditions, Special Conditions pursuant to MGL, Chapter 131, Section 40 1-6, 9, 10-12, 16-24 and Special Conditions pursuant to the Bylaw 4,6,7,8,9, Additional Special Conditions: ASC-1) All trees removed within the 100 foot Buffer Zone must be replaced at a 1:1 ratio (per caliper inch) outside of the vista viewshed.

Kiebala moved and seconded by Weston to move Draft Order of Conditions to Final Order of Conditions. Unanimous vote.

2) Applicant: John & Kathryn Pearce

DEP File Number: SE7-1883

Representative: Holmes and McGrath, Inc.

Project Address: 75 Winsor Road, Cataumet

Proposed Project: Install and maintain underground natural gas, electric, and water utility services within a VE Flood Zone, within 100 feet of a Wetland Resource Area, and within a Wetland Resource Area

Raúl Lizardi-Rivera representing: proposed work for utility services installed to existing residence. The seasonal house will be remodeled for year-round use requiring new electric, water, and gas to the facility. There will be direct drilling under bridge carrier to provide water service to the house. There will be new service added to the existing conduits for the electrical work. Applicant is proposing to install a hydrant to service. The hydrant can be a condition in the application. The dwelling currently has town water but the service is on the surface for hundreds of feet.

Kiebala – asked where is the closest hydrant? There is a hydrant on Windsor Road. The house was built in 1881. Applicant is working with the Bourne Water Department on the water installation. By upgrading water service, applicant is offering to not just dig and back fill the trench but to extend 6" to the main pipe and expand to other house next door at their expense.

No further board comments.

Brendan Mullaney – no actual alteration or disruption will be in the resource areas. Digging will be in the existing gravel road. Overall the project will be beneficial and will get the old pipe out

of the marsh. Letter to the Dept. of Marine Fisheries was sent and read into the record - their comments can be added to the Order as part of the conditions. This included a frac out plan for the drilling work and a comprehensive contingency plan for said frac out. This is industry standard.

The contractor handed a contingency plan to Brendan Mullaney.

No board comment. No public comments.

Palumbo moved and seconded by Weston to close the public hearing. Unanimous vote.

Brendan Mullaney – Draft Order of Conditions: All General Conditions, Special Conditions pursuant to MGL, Chapter 131, Section 40 1,2,3,9-13,16-24 and Special Conditions pursuant to the Bylaw 7,8,9. Additional Special Conditions: ASC-1) A frac out contingency plan must be followed for proposed horizontal directional drilling operations. This must be done in accordance with the Division of Marine Fisheries comment letter, dated January 21, 2014 and the proposed HDD frac out plan submitted in an e-mail from Eric Drew, EW Drew, Inc., dated January 23, 2014, and submitted during the Public Hearing on behalf of the applicant.

Weston moved and seconded by Kiebala to move Draft Notice of Intent to Final Notice of Intent. Unanimous vote.

3) Applicant: Ladd Homes LLC

DEP File Number: SE7-1885

Representative: SAME

Project Address: 26 Shore Road, Bourne Village

Proposed Project: Construct single family home with attached garage, Title V septic system, utility installation, and all associated clearing, grading, and landscaping within an AE Flood Zone and within 100 feet of a Wetland Resource Area

Brendan Mullaney – this hearing was continued at the applicant’s request for additional time to review issues with the project. The next scheduled meeting will be on 2/6/14. Chm. Gray advised the public to call ahead to see if project will be presented on said date.

At this time, Chm. Gray recused himself from discussion and vote of Item #4 and turned the meeting over to V. Chm. Craig Rheinhardt.

4) Applicant: Francis & Helen Fistori

DEP File Number: SE7- 1884

Representative: JC Engineering, Inc.

Project Address: 23 Nick Vedder Road, Buzzards Bay

Proposed Project: Remove and replace an existing sloped concrete block revetment with new stone revetment within an AE Flood Zone and within a Wetland Resource Area (Coastal Bank)

Mr. John Churchill representing with Mr. Don Perry from Pinnacle – looking to replace the concrete revetment with a stone revetment to maintain the bank in a better manner going onto the beach.

Mr. Don Perry – he has received Board of Selectmen approval for easement for access and to protect the property while under construction. This is the same design concept from a construction standpoint similar to projects in the Sagamore Beach area. Seeking to access through Electric Avenue. Heavy rubber mats will be used and will leave the site at an equal or greater condition than started. The timeline is between 4-6 weeks which is a narrower window due to the tides. The 12” drainage pipe will be fully protected.

Brendan Mullaney – suggested a walk through before the start of the project and the beach to be left in the same condition as it was.

The existing steps will be replaced and the vegetation will be removed up to the top of the tow. Proposing on the slope to add creeping juniper.

Brendan Mullaney – main concern with the project is that there is minimal impact to the beach. Applicant will use the boat ramp to access the area. The drainage pipe is a concern. The boat ramp itself is of concern as it is made of old concrete slabs and only has a 4” overlay; it is not as structurally sound as it should be. He suggested meeting before the project begins with himself and the DPW Superintendent. He will reference methodology and access during the course of the project.

No board comments.

Gary Maloney, abutter – asked what the revetment will be made of. Large boulders will be used. Stock piling of materials will stay on the property until the project is complete.

Equipment will be moved down to the town beach overnight, where it will be left on the sand above the mean high water line. Questions raised about equipment on beach. Brendan Mullaney states this is the only option to avoid impacts to the boat ramp, paved roadway, and drainage system in the parking lot.

No further public comment.

Palumbo moved and seconded by Weston to close the public hearing. Unanimous vote.

Brendan Mullaney – Draft Order of Conditions: All General Conditions, Special Conditions pursuant to MGL, Chapter 131, Section 40 1,2,3,12,13,15-24 and Special Conditions pursuant to the Bylaw 7,8,9 to the bylaw. Additional Special Conditions: ASC-1) Project must adhere to conditions set forth in Temporary Access Easement granted by Bourne Board of Selectmen.

ASC-2) Any damage occurring on town property to Wetland Resource Areas, coastal access facilities, and/or other town owned infrastructure are the sole responsibility of applicant and contractor and must be repaired or replaced to original condition.

ASC-3) Project must adhere to document titled "Method of Construction & Protection of Beach/Access", submitted by Pinnacle Site Contractors at Public Hearing on behalf of applicants. and Special Conditions granted by the Board of Selectmen – damage to the town infrastructure to be repaired to original state and referencing methodology filed by the contractor.

Palumbo moved and seconded by Weston to move Draft Notice of Intent to Final Notice of Intent. Unanimous vote.

At this time, V. Chm. Craig Rheinhardt turned the meeting back over to Chm. Gray.

5) Applicant: John & Lori Ricciuti

DEP File Number: SE7-1881

Representative: David R. MacLean & Associates

Project Address: 40 Wenaumet Bluffs Drive, Pocasset

Proposed Project: Raze and rebuild existing dwelling, including landscaping, utilities, and appurtenances within an AE Flood Zone and within 100 feet a Wetland Resource Area

(Continued from January 9, 2014)

Brendan Mullaney – hearing was continued for file number only. He has received letters of support of the project from two other abutters.

Weston moved and seconded by Kiebala to close the public hearing. Unanimous vote.

Brendan Mullaney – Draft Order of Conditions: All General Conditions, Special Conditions pursuant to MGL, Chapter 131, Section 140 1-6, 9,10,12,13,16-24 and Special Conditions pursuant to the Bylaw 7,8,9.

Weston moved and seconded by Kiebala to move Draft Notice of Intent to Final Notice of Intent. Unanimous vote.

At this time Chm. Gray recused himself from discussion and vote as well as Tom Ligor and handed meeting over to V. Chm. Craig Rheinhardt.

6) Applicant: Red Brook Homeowners Association, Inc.

DEP File Number: SE7-1880

Representative: Bracken Engineering, Inc.

Project Address: Off Nairn Road, Red Brook Harbor, Cataumet

Proposed Project: Removal and reconstruction of existing licensed pier with a modified pile configuration within a VE Flood Zone and within a Wetland Resource Area

(Continued from January 9, 2014)

Mr. Zac Baskinski representing – continued for clarification of the size of the piling which is 12” and the type of material decking to be no more than ¾ ”-1” width between the boards.

Brendan Mullaney – handed a sample of the material that was considered but ultimately they chose to use traditional PT decking. It is his opinion that the applicants have sufficiently addressed the decking and pile issues - beyond that, hearing was continued for receipt of file number.

Palumbo moved and seconded by Weston to close the public hearing. Unanimous vote.

Brendan Mullaney – Draft Order of Conditions: All General Conditions, Special Conditions pursuant to MGL, Chapter 131, Section 40 1,2,3,5,9,12,13,16-24 and 30-41 all relating to docks, piers and floats and Special Conditions pursuant to the Bylaw 7,8,9.

Weston moved and seconded by Kiebala to move Draft Notice of Intent to Final Notice of Intent. Unanimous vote.

Request to Amend Order of Conditions:

1) Applicant: Harborside Construction

DEP File Number: SE7- 1768

Representative: Jeffrey Ryther, PE, BSS Design

Project Address: 450 Wings Neck Road, Pocasset

Proposed Project: Amend Order of Conditions to add a platform, ladder, and stairs to an existing stone groin within a VE Flood Zone and within 100 feet of a Wetland Resource Area

Jeff Ryther representing – looking to amend by adding a 6’x9’ connector between two swim ladders in the center of the groin. Under DEP guidance, applicant can make an amendment to said license. The platform will stay and both ladders will come off. The rails will be left in place (stainless steel) and wooden stairway will be fastened to the stainless rails.

Chm. Gray – asked about the type of anchoring. They will drill into existing stones with an epoxy used going into the handrails.

Weston – would like to see a removal platform and aluminum material used for the platform.

William McDermott, representing property owner – states he has no problem using other material

Brendan Mullaney – can use wood but it will be heavy.

Chm. Gray – would like to see the platform seasonal.

An abutter who didn't state her name is in favor of this proposal.

No further board comment. No public comment.

Weston moved and seconded by Palumbo to grant Amendment with the condition of the structure being seasonal. Unanimous vote.

Request to Extend Order of Conditions:

1) Applicant: Town of Bourne Open Space Committee

DEP File Number: SE7-1603

Representative: SAME

Project Address: Sandy Pond Rd., Bournedale

Proposed Project: Construct a roadway and parking area with associated grading, utilities and a subsurface drainage system within 100' of a Wetland Resource Area

Brendan Mullaney – this is an Open Space Committee (OSC) request order for three (3) years to allow additional time to implement the project which will begin in the near future.

Weston moved and seconded by Kiebala to grant Extend Order of Condition. Unanimous vote.

Other Business:

► Vote – Excuse Absent Members, if necessary

Weston moved and seconded by Kiebala to excuse members Paul Lelito and Peter Holmes. Unanimous vote.

► Approval of Minutes – December 5, 2013

Kiebala moved and seconded by Weston to approve minutes of 12/5/13 as submitted. Unanimous vote.

► Any other business that may legally come before the Commission

Brendan Mullaney – the next meeting will be the Shore Road building new property which was continued from tonight. This will be the only hearing for the next meeting. The proposed house is 70 FT from the wetland/vernal pool. He will keep in place unless the applicant is not ready on 2/6/14 in which case will be moved to the 2/20/14 meeting.

► Report of the Conservation Agent

► Questions and Answers re: MGL Chapter 131 §40 and 310 CMR 10.00-10.99

► Questions and Answers re: Town of Bourne Wetland Protection Bylaw (Article 3.7) and BWR 1.00-1.16

Adjourn

Palumbo moved and seconded by Weston to adjourn. Meeting adjourned at 8:25 pm.
Unanimous vote.

Respectfully submitted,

Lisa Groezinger, sec.