

## CONSERVATION COMMISSION MEETING MINUTES

Thursday, July 24, 2014 ~ 7 pm ~ Lower Conference Room, Bourne Town Hall

Members present: Chm. Bob Gray, V. Chm. Martha Craig Rheinhardt, Peter Holmes, Betsy Kiebala, Paul Lelito and Susan Weston. Alternate member Thomas Ligor

Members excused: Rob Palumbo

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.

### 7:00) Requests for Determination of Applicability:

- 1)     Applicant:                     Brett Ellis                                     File Number: CC14-29  
       Representative:         SAME  
       Project Address:        176 Presidents Road, Gray Gables  
       Proposed Project:       Upgrade to new Title V septic system including landscaping and  
  appurtenances within an AE Flood Zone  
  Hearing Under State Act Only

Mr. Ellis – This is an upgrade to an existing septic, same location, no grade changes and will re-shell the drive area.

Brendan Mullaney – no other jurisdictional resources within 100 FT. This project will be an improvement over existing conditions, the lot is a flat, developed lot. No other concerns with the project.

No board comment. No public comment.

Lelito moved and seconded by Kiebala a Negative Two Determination. Unanimous vote.

- 2)     Applicant:                     Joseph Agrillo, Jr.                                     File Number: CC14-30  
       Representative:         SAME  
       Project Address:        140 & 142 Wings Neck Road, Pocasset  
       Proposed Project:       Repair, maintain, and license an existing granite seawall within a  
  VE Flood Zone and within 100 feet of a Wetland Resource Area

Chm. Gray explained he would recuse himself from discussion and vote if anyone had issues with him sitting on hearing. There were no objections so he remained for discussion and vote.

Joseph Agrillo, Jr. representing – the existing seawall has not been licensed in the past. The mean high water mark was below the wall according to plans dated 1961. This is a basic maintenance project to fill some voids with mortar. All work to be done by hand.

Lelito – asked if the applicant will do the work and will come back for Chapter 91 license.

Brendan Mullaney – the wall is in good shape but does need minor work to be done by hand. Applicant to utilize the Determination to obtain a license and include a maintenance plan for the wall. This is a routine project.

No board comment. No public comment.

Kiebala moved and seconded by Lelito a Negative Two Determination. Unanimous vote.

- 3)     Applicant:                     Gary & Marcia Puryear                     File Number: CC14-33  
          Representative:       Barbara Frappier, Warwick & Associates, Inc.  
          Project Address:       83 Gilder Road, Gray Gables  
          Proposed Project:     Construct a deck within AE & VE Flood Zones and within 100 feet  
  of a Wetland Resource Area

Barbara Frappier representing – original project was for a carport and free standing garage. The original plan didn't include the extension of the deck behind the new carport. The project will be on sauna tubes.

No board comments.

Brendan Mullaney – the rest of the work on the garage and other portions have been approved a few meetings ago. This approval is for the deck expansion. No concerns with the project.

No public comment.

Holmes moved and seconded by Kiebala a Negative Two Determination. Unanimous vote.

- 4)     Applicant:                     Anne Steele                     File Number: CC14-32  
          Representative:       Shawn MacInnes, MacInnes Consulting  
          Project Address:       53 Spruce Drive, Pocasset  
          Proposed Project:     Upgrade to new Title V septic system including landscaping and  
  appurtenances within an AE Flood Zone  
  Hearing Under State Act Only

Shawn MacInnes representing – this is an upgrade to a new septic system which includes a new 1,500 gallon tank.

Brendan Mullaney – AE Flood Zone only, there are no other resource areas within 100 feet of proposed project. No concerns with the proposed project.

No board comment. No public comment.

Holmes moved and seconded with Weston a Negative Two Determination. Unanimous vote.

- 5)     Applicant:                      Mashnee Association, Inc.                      File Number: CC14-31  
         Representative:           James Gonet  
         Project Address:           192 Clipper Road and Port Road, Mashnee Island  
         Proposed Project:        Repair and resurface an existing cement shuffleboard, install a wooden shed, install two benches, install utilities, and perform landscape maintenance within a VE Flood Zone and within 100 feet of a Wetland Resource Area

Mr. Gonet representing - applicant is seeking to reclaim some of the overgrowth on old cement pad that is used for recreation, meetings, etc., which is crumbling. Would like to refurbish and restore. Erect a 12'x12' shed to store recreational equipment. There will be two foot paths maintained by hand using hand clippers and spray eliminating the poison ivy. Two old benches from Mashnee Island were restored and will be put on Port Road.

Brendan Mullaney – the Association asked him to meet at the property and they had a number of projects to improve this parcel, he determined this filing would be necessary so they could improve and maintain the area that has traditionally been used for recreation and other activities. The shed could be moved to 50 FT from that dune.

No board comment. Mr. Mulvey asked about a generator. Applicant will not store any power equipment in the shed, just hand tools. No further public comment.

Craig Rheinhardt moved and seconded by Holmes a Negative Two Determination. Unanimous vote.

**7:10) Notices of Intent:**

- 1)     Applicant:                      John & Kathryn Pearce                      DEP File Number: SE7-1901  
         Representative:           Holmes & McGrath, Inc.  
         Project Address:           75 Winsor Road, Cataumet  
         Proposed Project:        Install and maintain an in-ground swimming pool, garage, terraces, entrance posts and gate, driveway modifications, and all associated utilities, fencing, retaining walls, excavation, grading, landscaping and plantings within a VE Flood Zone and within 100

feet of a Wetland Resource Area

Mr. Tim Santos representing – the property is currently developed with a single-family home. Applicant seeking to construct a garage and a pool. There will be maintenance and modification to the existing driveway. He is proposing an expansion to the driveway and there will be some landscape modification. All roof runoff will go to a dry well.

Ligor – asked why is applicant adding a fence in wetland area. Brendan Mullaney said the area is above the sea wall in the vegetated area and not in the resource area.

Kiebala – asked about the filling of the pool. Mr. Santos stated the pool is a salt water chlorination system which will be drained in a drywell south of the proposed garage when necessary. The capacity of drywell is 600 gallons.

Lelito – asked if the drywell will have any impact on the septic. Mr. Santos stated it will not as it will be a new Title V and will meet required setbacks.

Brendan Mullaney – explained there are resources on all sides of said project. There is a 50 FT no touch buffer zone. The actual structures are confined to being greater than 50 FT of the resource area. They are proposing a 3:1 area of mitigation plantings to accommodate the driveway. The area is mostly a combination of lawn and evergreen trees which is a good tradeoff. Applicant is not proposing any structures within 50 FT which is the intent of the bylaw and for an undeveloped property. The board needs to determine if driveway work is permissible with the mitigation proposed.

Lelito – suggested limiting the silt fence to where ground being disturbed only.

Chm. Gray – asked if the groins are licensed. The wall and bridge are licensed. The stones are on its original license. Brendan Mullaney said everything is either licensed or in the process licensed.

No further board comment. No further public comment.

Holmes moved and seconded by Leltio to close the public hearing. Unanimous vote.

Brendan Mullaney – Draft Order of Conditions: General Conditions pursuant to MGL, Chapter 131, Section 140 and Special Conditions 1,2,3,5,6,9,10,12,13,16-24 and Special Conditions to the Bylaw 4,6,7,8,9 and Special Conditions 20,24 and Bylaw conditions 4,6 to continue in perpetuity.

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

2)      Applicant:                      Victor Gilbert                      DEP File Number: SE7-

Representative: Bracken Engineering, Inc.  
Project Address: 35 Maryland Avenue, Monument Beach  
Proposed Project: Raze and reconstruct an existing single family dwelling including all associated utilities, site work, landscaping, and appurtenances within AE and VE Flood Zones and within 100 feet of a Wetland Resource Area

Chm. Gray recused himself from discussion and vote. He turned the meeting over to Craig Rheinhardt.

Zac Basinski representing – this is an existing developed lot with single-family dwelling. The coastal bank runs along the seawall: VE 18 and AE 15 flood zone. The house was built in 1900. Applicant requests to raze and build a new house on the lot. The work is outside of the 50 FT buffer zone, with structures outside the VE. There will be a silt fence to prevent erosion and intrusion from neighboring lots.

Brendan Mullaney – this project meets criteria of the bylaw. De-nitrification is an improvement over the existing septic. There is erosion control proposed to limit migration of sediment to the resource area. No other concerns with the project.

No further board comments.

John Garanito, abutter – asked if the applicant can address the puddle under heavy storms in front of the property and hasn't been maintained very well. There is discussion about private roads and if there is a neighborhood association. Brendan Mullaney explained the issue is with road maintenance and not really pertinent to this project. The project will not increase amount of stormwater going onto the roadway. Paul Lelito explained the burden of roadway water is not to be put on the applicant and is not necessarily an issue for this hearing, which is for the tear down and reconstruction of a dwelling. This is mostly on association property and more of an association issue that could be discussed with neighbors to determine best way to address. No further public comments.

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

Brendan Mullaney – Draft Order of Conditions: General Conditions pursuant to MGL, Chapter 131, Section 140 and Special Conditions 1-6,9,10,12,14,16-24 and Special Conditions to the Bylaw 4,7,8,9 and Special Conditions 20,24 to continue in perpetuity.

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

Chm. Gray back to chair meeting.

3) Applicant: Monica Lewis, Trustee of ECJ DEP File Number: SE7-1893

Property Trust  
Representative: Sullivan Engineering, Inc.  
Project Address: 67 Pasture Road, Scraggy Neck  
Proposed Project: Reconstruct an existing licensed stone groin within a VE Flood Zone, within a Wetland Resource Area, and within 100 feet of a Wetland Resource Area  
Continued from June 5, 2014

John O'Dea representing – the board asked for clarification for rights. The trusts' attorney has outlined the deed history and concludes applicant has rights on the roads including Seal Lane, as far as temporary movement for shoreline repairs. He submitted a Pierce and Mandell, PC letter dated 6/18/14 for the file.

The SNRA was not open to applicant crossing their property. Scraggy Neck Recreation Association letter re: 67 Pasture Road submitted for the file.

Paul Lelito asks if the SNRA has denied the request and therefore no longer involved with the hearing. Mr. O'Dea states yes, this project is completely separate from the Association (Lelito and Kiebala do not have to recuse themselves from discussion and vote).

The plan now is to use the right-of-way off of Seal Lane – vegetation will need to be removed but this is the least impact out of all the options. Applicant hopes to construct in the late fall. A Wilkinson ecological design letter dated 7/24/14 regarding alternative analysis for access to stone groin submitted for the file.

No further board comments.

Peter Sterling on board of Scraggy Neck Recreation asked how wide path will be. Mr. O'Dea states 12 FT.

Mary Jane Mastrangelo, 601 Scraggy Neck, on board of governors. Didn't understand the board's reasoning and wanted to know the best environmental position.

Brendan Mullaney – if applicant puts down the proper plating to traverse the area, you would hardly know a machine was there. He suggested applicant continue dialog with Association or continue on and move forward with the project.

Chm. Gray – there are two viable alternatives. Brendan Mullaney suggested the write the two viable alternative and let applicant and association decide.

Weston moved and seconded by Craig Rheinhardt to close public hearing. Unanimous vote. Kiebala abstained.

Brendan Mullaney – Draft Order of Conditions: General Conditions pursuant to MGL, Chapter 131, Section 140 and Special Conditions 1,2,3,9,10,12,13,16-24 and Special Conditions to the Bylaw 7,8,9. Additional Special Conditions:

ASC-1) The "Narrative to Accompany Notice of Intent" is incorporated into this Order of Conditions.

ASC-2) All areas disturbed for construction access must be restored and revegetated to pre-existing conditions.

ASC-3) There are 2 viable options for access to the project site, as outlined as Access 1 and 2 in an Alternative Analysis for Access letter prepared by Wilkinson Ecological Design, dated July 24, 2014. This letter is incorporated into this Order of Conditions.

ASC-4) In the event that the proposed access affects the existing parking lot drainage, proper & effective drainage and revegetation efforts must be executed, thus eliminating the free flow of water across the dune area causing gully erosion. The project must be monitored for the duration of the permit to ensure there are no adverse impacts on the drainage system with annual reports submitted detailing the revegetation and the addition of a narrative to accompany methodology for construction of all areas disturbed to be restored and revegetated to previous conditions and two viable options. The board finds the condition referencing the Wilkinson letter dated 7/24/14. Also a plan for revegetation for the first two options are acceptable based upon determination of applicant and Scraggy Neck Association. Drainage will be monitored until it is completely vegetated.

Lelito – will write up documentation for the restoration of drainage to add to the Notice of Intent.

Holmes moved and seconded by Weston moved to include Lelito's additional special condition. Unanimous vote. Kiebal abstained.

#### Request to Amend Order of Conditions:

1)	<u>Applicant:</u>	Jack & Ann Wood	<u>DEP File Number:</u> SE7-1802
	<u>Representative:</u>	Bracken Engineering, Inc.	
	<u>Project Address:</u>	35 Park Street, Pocasset	
	<u>Proposed Project:</u>	Amend OOC to relocate dwelling, construct a garage, relocate septic tank, and associated grade changes within 100 feet of a Wetland Resource Area	

Chm. Gray recused himself from discussion and vote. He turned the meeting over to Craig Rheinhardt.

Brendan Mullaney – there are minor changes which are significant enough for an amendment with respect to the 50 FT buffer. This is slightly modified; it is the same project that was approved with a different site layout. No concerns as all timelines will be the same.

No board comment.

Martha Hothford, abutter wanted to review the plans and asked timeline. Mr. Basinski said the project will begin after Labor Day. No further public comment.

Holmes moved and seconded by Weston to grant Amendment Order of Conditions. Unanimous vote.

Chm. Gray back to chair the meeting.

- 2)     Applicant:                     Bruce & Kerri Wenzel                     DEP File Number: SE7-1722  
         Representative:             SAME  
         Project Address:           98 Tahanto Road, Pocasset  
         Proposed Project:         Amend OOC to reconstruct and maintain existing licensed  
   concrete seawall within an AE Flood Zone and within 100' of a  
   Wetland Resource Area - Continued from June 19, 2014

At the applicant's request, this meeting is continued to 8/7/14.

- 3)     Applicant:                     Tom & Diane O'Connor                     DEP File Number: SE7-1843  
         Representative:             J.M. Grenier Associates, Inc.  
         Project Address:             9R Main Street, Buzzards Bay  
         Proposed Project:         Amend OOC to include installation of block retaining wall, grading,  
   installation of underground utilities and reconstruction of deck  
   within an AE Flood Zone and within 100 feet of a Wetland  
   Resource Area

Richard Record representing – applicant is seeking to extend the driveway. There was talk of change in overhead electrical service to underground before doing the wall.

Brendan Mullaney – this is an after-the-fact amendment. There was no detail and no stone wall shown on the original plan, it just stated "Driveway to be Extended". Applicant before the board to clarify and include details in plan of record to accurately reflect what is on the property.

No board comments. No public comments.

Holmes moved and seconded by Craig Rheinhardt to approve the Amendment of Conditions. Unanimous vote.

Certificates of Compliance:

- 1)     Applicant:                     Brian Ciccariello                     DEP File Number: SE7- 1718  
         Representative:             Thomas Roux, Bennett Engineering



Project Address: 55 Head of the Bay, Buzzards Bay  
Proposed Project: Construct a new single family house including septic system, associated utilities, landscaping, and grading within 100 feet of a Wetland Resource Area

Brendan Mullaney – a site plan was conducted and has determined compliance and recommends to grant.

Holmes moved and seconded by Weston to grant Certificate of Compliance. Unanimous vote.

2) 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

Brendan Mullaney – a site plan was conducted and has determined compliance and recommends to grant Certificate of Compliance.

Weston moved and seconded by Holmes to grant. Unanimous vote.

Other Business:

► 13A River Road – Restoration Plan to address Enforcement Order

Joe Agrillo, Jr. – submitted plans to Brendan Mullaney. There are four varieties of trees on the plant schedule (eastern red cedar and red, white oaks) and 70 plants with six varieties to be planted in area that was not supposed to be disturbed. Town water is available at the existing cottagewill water the plants until established.

Brendan Mullaney – at this point the board needs to look at plan to show what vegetation is being put back and make sure all will survive and thrive. Also need to determine if this is adequate representation of what was removed Paul Lelito suggests red oak, as they are more hardy in that area. He also suggested bayberry, beach plum and ink berry. A 4 FT pathway will be in between the plantings. There will be a two-year monitoring for the plants to ensure survival. Chairman Gray would like to see more vegetation planted between the proposed house and the river. He suggested to submit new plan with a line drawn 16 FT at the closest point and a line drawn 35 FT from the top of the bank landward. Chm. Gray recommended do work 1<sup>st</sup> or 2<sup>nd</sup> week of September.

Mr. Agrillo will revise and submit new plan.

► Update – Indian Trail, Sagamore Beach

Chm. Gray recused himself from discussion and vote.

Brendan Mullaney – this will be on the agenda for 8/7/14. Atty. Ford O'Connor went before the Board of Selectmen and sought permission to file a Notice of Intent at Indian Trail. The Selectmen voted to allow to bring the filing with the condition the Conservation Commission must authorize filing. Atty. Troy's opinion is that both parties have a recognized legal interest in the parcel. The Conservation Commission needs to determine if they want to enter into agreement with the Board of Selectmen as co-applicant for the project. If this is authorized, the applicant will file a Notice of Intent. There has been an additional property added to the project which now includes six (6) homes; not five (5) homes. If the board approves through a Notice of Intent, the homeowners would need to seek a permanent easement from Town Meeting which would require a 2/3rd vote. If this is in the affirmative, the next step would be to seek legislative approval.

Holmes – suggested Atty. Troy come to the 8/7/14 meeting. Brendan Mullaney will speak with TA Guerino.

Lelito – said this would give permission to file a Notice of Intent, but not a pre-approval.

Craig Rheinhardt – suggested the board review the Orders of Conditions before the meeting.

Scott Richards, homeowner on Indian Trail – he and his family have owned their home for generations and feels this project is very important and the area won't get better on its own.

► Vote – Excuse Absent Members, if necessary

Lelito moved and seconded by Holmes to excuse Rob Palumbo. Unanimous vote.

► Approval of Minutes – June 5, 2014

Kiebala moved and seconded by Holmes to approve as submitted. Unanimous vote.

► Any other business that may legally come before the Commission

► 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**

Holmes moved and seconded by Palumbo to adjourn. Meeting adjourned at 9:45 pm  
Unanimous vote.

Respectfully submitted - Lisa Groezinger, sec.