

## **CONSERVATION COMMISSION MINUTES**

**Thursday, March 20, 2014 ~ 7 pm ~ Lower Conference Room, Bourne Town Hall**

Members present: V. Chm. Martha Craig Rheinhardt, Betsy Kiebala, Paul Lelito and Rob Palumbo. Alternate member Thomas Ligor also present.

Members excused: Chm. Bob Gray, Peter Holmes and Susan Weston

V. Chm. Craig Rheinhardt 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: V. Chm. Craig Rheinhardt 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.

### **Requests for Determination of Applicability:**

**Applicant:** 24 Ram's Head Road LLC  
**File Number:** CC14-10  
**Representative:** Holmes & McGrath, Inc.  
**Project Address:** 24 Ram's Head Road, Cataumet  
**Proposed Project:** Upgrade to new Title V septic system within an AE and VE Flood Zone

Timothy Santos, Holmes and McGrath – project is a new septic system within current flood zone, flood zones to be revised with new maps

Brendan Mullaney – explained flood maps go into effect 7/16/14. This project is within the flood zone and there are no other jurisdictional resources within 100 FT of the new system. This is a vast improvement over existing conditions and has no other concerns with the project.

No board comment. No public comment.

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

**Applicant:** David Sampson  
**File Number:** CC14-06  
**Representative:** SAME  
**Project Address:** 429 Barlows Landing Road, Pocasset  
**Proposed Project:** Rebuild existing porch and basement entrance and construct new deck within an AE Flood Zone.  
Hearing Under State Act Only  
(Continued from March 6, 2014)

Mr. Sampson representing – the house was razed to get it out of the flood plain. Applicant is seeking to add a 12'x12' deck on the back with appropriate rails.

Brendan Mullaney – the project is in an AE flood zone, it is a flat, developed lot. He has no other concerns with the project.

No board comment.

John Carroll – asked for clarification of the additional work.

Brendan Mullaney – a small portion of the work is an after-the-fact filing from building a deck. There wouldn't be any concerns from the board's aspect.

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

**Notices of Intent:**

**Applicant:** William & Mary Ann Schultz Revocable Living Trust  
**DEP File Number:** SE7- 1888  
**Representative:** G.A.F. Engineering, Inc.  
**Project Address:** 54 Fairview Road, Pocasset  
**Proposed Project:** Remove and reconstruct existing concrete seawall, patio, and retaining walls within AE and VE Flood Zones, within a Wetland Resource Area, and within 100 FT of a Wetland Resource Area.

At the request of the applicant, this hearing is continued to the next meeting.

**Applicant:** Roderick & Murphy O'Flaherty  
**DEP File Number:** SE7- 1887  
**Representative:** Allen & Major Associates, Inc.  
**Project Address:** Circuit Avenue/Bassetts Island, Pocasset  
**Proposed Project:** Install a water service via directional drilling from Circuit Avenue to Bassetts Island within AE and VE Flood Zones, within a Wetland Resource Area and within 100 FT of a Wetland Resource Area.

**(Continued from March 6, 2014)**

Brendan Mullaney – this hearing was continued for receipt and comment from National Heritage, and the method to pursue with regard to an easement.

National Heritage has no comment. The applicant met with the Selectmen who have agreed to sponsor an article to get on the Warrant for the Town Meeting on 5/5/14 to do the proposed work. The article will still require a vote at town meeting.

No other comments. No public comment.

Lelito moved and seconded by Kiebala 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 1,2,3,9,12,13 and 16-24 Special Conditions to the bylaw 7,8,9 and additional Special Conditions ASC-1) A comprehensive frac out plan must be submitted that outlines response procedures and containment measures if such an event were to occur.

ASC-2) Approval is contingent upon receipt of all other applicable federal, state, and local permits, licenses, etc. This includes a utility easement in accordance with the opinion of Town of Bourne Legal Counsel.

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

### **Certificates of Compliance**

**Applicant:** Walter Sullivan  
**DEP File Number:** SE7-1777  
**Representative:** Bracken Engineering, Inc.  
**Project Address:** 258 Shore Road, Monument Beach  
**Proposed Project:** Construct garage and driveway within an AE Flood Zone and within the 200 ft Riverfront Area.

Brendan Mullaney – a site visit was conducted and reports that the work is completed substantially as proposed. He recommends granting.

Palumbo moved and seconded by Lelito to issue Certificate of Compliance. Unanimous vote.

**Applicant:** Jeanne and Chris Nerolich  
**DEP File Number:** SE7-1868  
**Representative:** Wayne Tavares, Wet Tech Land Design  
**Project Address:** 98 Lake Drive, Pocasset  
**Proposed Project:** Reconstruct a failing retaining wall with new segmental block wall, including associated grading and landscaping, within 100 feet of a Wetland Resource Area

Brendan Mullaney – a site visit was conducted and found according to the plans submitted, the wall was slightly realigned to keep the oak trees. The project is complete and found to be substantially in compliance, recommends granting.

Palumbo moved and Lelito seconded to issue Certificate of Compliance. Unanimous vote.

### **Other Business**

- Brendan Mullaney – there will be no 4/3/14 meeting. The next meeting will be on 4/17/14.
- Vote – Excuse Absent Members, if necessary

Palumbo moved and seconded by Lelito to excuse absent members Chm. Gray, Peter Holmes and Susan Weston. Unanimous vote.

Brendan Mullaney – the Joint Meeting of the Selectmen, the Planning Board and the Conservation Commission to discuss Tax Title properties has been scheduled to 3/25/14. A minimum of four (4) members is required for a quorum.

- ▶ 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

Pinnacle is before the board for comments and discussion of a situation Brendan Mullaney deemed important enough to discuss at tonight's meeting with regard to Indian Trail in Sagamore Beach and the additional erosion on the cliffs and embankments. The land is owned by the town and is in the care, custody and control of the Conservation Commission.

Mr. Don Perry, of Pinnacle – the properties for discussion are 8,10,12,18 and 22 Indian Trail. They have been monitoring erosion and have seen approximately 16 FT of erosion since 1904 and see rapid erosion today due to recent storms, they would like to stabilize the toe of the bank. All five homes are compromised and it has been extremely rapid in the last couple of months.

Mr. Mulvey – cautioned the board that there should be no deliberation as he said this discussion is a violation of the Open Meeting Laws. Brendan Mullaney said he saw this as being important enough to bring to the board's attention tonight. No vote will be made tonight. This has to go through procedures and will draft a letter for request of Town Counsel opinion as the land was given to the town with certain legal provisions. He will see if a placeholder article can be added for the Warrant at Town Meeting. He will also look into protocol for signatures/sponsorship for said placeholder.

Additional discussion between the board and contractor regarding the potential project. Board agrees Brendan should request advice and opinion from Counsel.

### **Adjourn**

Kiebala moved and seconded by Lelito to adjourn. Meeting adjourned at 8:10 pm. Unanimous vote.

Respectfully submitted - Lisa Groezinger, sec.