

**Conservation Commission  
Meeting Minutes**

Town Hall Lower Conference Room

24 Perry Ave., Buzzards Bay, MA 02532

May 19, 2016

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TOWN CLERK BOURNE

**I. Call to order**

Chairman Robert M. Gray, called to order the meeting of the Conservation Commission at 7:00 PM on May 19, 2016. Mr. Gray explained all the reviews, unless otherwise stated, are joint reviews. Applications will be processed pursuant to the Massachusetts Wetlands Protection Act, M.G.L. c. 131, s. 40 and pursuant to Article 3.7 of the Town of Bourne Wetlands Protection By-law.

Note: Chm. Gray addressed the audience and explained the 5, 5, 5 rule; which allows the applicant / representative five minutes to make a presentation to the commission members, commission members will take five minutes to seek clarification if needed, the conservation agent will also give a report and five minutes of public input is allowed. Additionally, he asked for all cell phones to be placed on vibrate and asked if anyone in the audience was audio or video recording the meeting to acknowledge that.

Chm. Gray informed members of the audience that Brendan Mullaney has left his position as the Conservation Agent, adding that a new agent has not yet been hired. He stated the first June meeting to be held on June 2, 2016 has been canceled and anything that needs to be continued may be continued to the June 16<sup>th</sup> meeting, and noted that meeting may also be canceled. He asked for everyone's patience until the new agent is in place.

He asked if anyone in the audience had any questions. No one had questions.

**II. Members Present:** Chm. Robert M. Gray, Robert Palumbo, Thomas Ligor, Betsey Kiebala, Melvin P. Holmes, Paul Szwed and Associate Member, Elise Leduc.

**Absent Members** – Susan Weston

**Also Present:** Carol Mitchell, Roy LaValley, Brian Grady, Peter Askusis, Shannon Heino, Stephen Doyle, Michael Perra, Mary Perra, Matt Costa, Michael Borselli, Jim Haggerty, Theresa Sprague,

**Request for Determination of Applicability:**

1) Robert Noonan

Roy LaValley - Representative

File Number CC16-27

1 Lake Drive, Pocasset

Construct a deck within 100 feet of a Wetland Resource Area.

Contractor, Roy LaValley, briefly described the proposed project to the board.

Board Comment – Ms. Kiebala inquired about the location of the Wetland Resource Area. Mr. LaValley referred to the plans and discussed the location with the board.

Mr. Ligor discussed the existing deck.

Public Comment – None.

Chm. Gray stated the recommendation of the departed agent, Brendan Mullaney, was a Negative Three.

**Mr. Holmes moved and Mr. Ligor seconded a Negative Three Determination.** The motion carried unanimously. 6-0-0.

Chm. Gray briefly explained the decision to the applicant.

2) Lawrence Gisetto

G.A.F. Engineering, Inc. - Representative

File Number CC16-28

12 Rip Van Winkle Way, Buzzards Bay

Upgrade to a new Title V septic system within an AE Flood Zone

*Hearing Under State Act Only*

Brian Grady of G.A.F. Engineering, Inc., addressed the board, stating the existing septic system is 30 years old and is in need of replacement.

Board Comment – Mr. Palumbo asked for the abutter notifications. Mr. Grady provided them.

Public Comment – None

The recommendation of the departed agent, Brendan Mullaney, was a Negative Two.

**Mr. Holmes moved and Mr. Ligor seconded a Negative Two Determination.** The motion carried unanimously. 6-0-0.

3) Maria Mainini

Meyer & Sons, Inc. - Representative

File Number CC16-29

32 Puritan Road, Buzzards Bay

Upgrade to a new Title V septic system within an AE Flood Zone

*Hearing Under State Act Only*

The applicant had a conflict and was unable to attend. Chm. Gray stated that the abutter notifications have been submitted and the departed agent, Brendan Mullaney, had no issues at the site.

Board Comment – None.

Public Comment – An abutter, Peter Askusis, evaluated the plans.

**Mr. Holmes moved and Ms. Kiebala seconded a Negative Two Determination.** The motion carried unanimously. 6-0-0.

4) TEC Associates

File Number CC16-30

MA Coastal Railroad Right-of-Way

Conduct vegetation management activities with AE and VE Flood Zones and within 100 feet of a Wetland Resource Area.

Chm. Gray stated this is a courtesy filing, it is an exempt activity; however, periodic filing is required. Plans were submitted indicating the location of the proposed work.

Board Comment – None.

Public Comment – None.

The recommendation of the departed agent, Brendan Mullaney, was a Negative Five.

**Mr. Holmes moved and Ms. Kiebala seconded a Negative Five Determination.** The motion carried unanimously. 6-0-0.

5) Tahanto Nominee Trust

Shannon Heino – Representative

File Number CC16-31

33 Tahanto Road

Perform repairs to existing licensed dock within an AE Flood Zone, within a Wetland Resource Area, and within the Riverfront Area.

Ms. Heino addressed the board. She explained that her dock is in need of repair due to damages caused by the previous winter weather. The EPA has approved her modification of the plan to change the existing 4x4 to piers.

Chm. Gray stated the departed agent had informed him that the Department of Waterways reviewed the plan and do not require additional Chapter 91 filing. They are viewing this as a small change in the plan within the 10% rule that they utilize. There will be no change in the license and the agent's recommendation is a Negative Two.

Board Comment – Ms. Kiebala inquired about the duration of the permit, when it would need to be renewed and how often the commission would need to review the license. Chm. Gray stated this is a 99 year license and the property owner would only need to present to the commission when repairs are needed.

Mr. Ligor inquired as to the type of piling that will be used. Ms. Heino indicated the piles will be set in the same location, but will be more substantial than the existing 4x4 pilings.

Public Comment – None.

Chm. Gray entertained a motion for a Negative Two Determination. **Mr. Holmes moved and Ms. Kiebala seconded a Negative Two Determination.** The motion carried unanimously. 6-0-0.

6) Frank Krueger

Stephen Doyle & Associates

File Number CC16-32

64 Salt Marsh Lane, Pocasset

Upgrade to a new Title V septic system within an AE Flood Zone

Stephen Doyle of Stephen Doyle & Associates addressed the board. He submitted the abutter notifications and briefly explained the project which is to upgrade the Title V septic system.

Board Comment – None.

Public Comment – None.

Chm. Gray entertained a motion for a Negative Two Determination. **Mr. Holmes moved and Ms. Kiebala seconded a Negative Two Determination.** The motion carried unanimously. 6-0-0.

**Notice of Intent:**

1) Michael & Mary Perra

Stephen Doyle & Associates - Representative

DEP File Number SE7-1943

29 Back River Road, Bourne

Construct a barn including all associated clearing, grading, utilities and appurtenances within an AE Flood Zone and within 100 feet of a Wetland Resource Area.

Stephen Doyle addressed the board and provided background on the Wetland Areas; i.e., an active cranberry bog and a Coastal Bank. He described the location of the proposed project and discussed the location of the house and septic system. The proposed barn would not have plumbing. He stated that in order to meet the requirements of the town's By-law, a small corner section of the barn had to be altered from the original plan.

Mr. Ligor asked what is currently in the location of the proposed site. Mr. Doyle stated there are a few trees there and only a few of them would need to be removed.

Chm. Gray referred to two State Wetland maps. He discussed the regulations and how they pertain to the Coastal Bank. Additionally, he discussed the project and how it was conformed to meet the requirements of the town's By-law. A discussion ensued. The board decided that the proposed location does not interfere with the setback of the Coastal Bank and have decided to allow the property owners to construct the barn with the corner section.

Board Comment – There was no further board comment.

Public Comment – None

Chm. Gray asked Mr. Doyle to revise, date and initial the new plan. Chm. Gray offered an explanation of the board's decision.

**Mr. Holmes made a motion to add the corner back on to the proposed barn as a Variance to the setback of the Coastal Bank. Mr. Palumbo seconded.** With no discussion, the motion carried unanimously. 6-0-0.

Chm. Gray entertained a motion to close the public hearing. **Ms. Kiebala moved to close the public hearing. Mr. Holmes seconded.** With no further discussion, the motion carried unanimously. 6-0-0.

Mr. Palumbo – Draft Order of Conditions: All General Conditions, Special Conditions pursuant to M.G.L. Chapter 131, Section 40, numbers 1, 2, 3, 9-13, 16-24 and Special Conditions pursuant to the town By-law numbers 4, 6-9. Special Conditions 20 & 24 and By-law Conditions 4 & 6 shall continue in perpetuity. Chm. Gray stated that the revised plan should be noted.

Chm. Gray asked if any board members would like to add a Condition to the Draft.

With no additional Conditions made, **Mr. Ligor moved and Mr. Holmes seconded to move the Draft Order of Conditions to Final Order of Conditions.** The motion carried unanimously. 6-0-0.

Chm. Gray advised the applicants of their next step in the process.

2) Robert & Linda Morse

Cape & Islands Engineering, Inc.

DEP File Number SE7-1942

90 Circuit Ave, Pocasset

Raze and reconstruct an existing dwelling, including decks, patio, landscape retaining walls, and all associated clearing, grading, landscaping and utilities within an AE Flood Zone and within 100 ft. of a Wetland Resource Area.

Matt Costa of Cape & Islands Engineering, Inc., addressed the board. He referred to the submitted plans and described the proposed project. He also discussed the buffer zone, the location of the Coastal Bank and the property's septic system. He stated the proposed project is moving further away from the Resource Area and the overall footprint is getting smaller.

Board Comment – Ms. Kiebala asked if the house will be taller and asked if the removal of a nearby tree would be required. Mr. Costa stated the tree is on the abutting property. He added that the house will be taller because it is located in a Velocity Zone.

Mr. Ligor asked if the existing house has a cellar. Mr. Costa stated it's a walk-out.

Public Comment – None.

Chm. Gray entertained a motion to close the public hearing. **Mr. Holmes moved to close the public hearing. Ms. Kiebala seconded.** With no further discussion, the motion carried unanimously. 6-0-0.

Mr. Palumbo – Draft Order of Conditions: All General Conditions, Special Conditions pursuant to M.G.L. Chapter 131, Section 40, numbers 1-6, 9, 10, 12, 13, 16-24 and Special Conditions pursuant to the By-law numbers 4, 6-9. Special Conditions 20 & 24 and By-law Conditions 4 & 6 shall continue in perpetuity.

Chm. Gray asked if any board members would like to add a Condition to the Draft.

With no additional Conditions made, **Ms. Kiebala moved and Mr. Ligor seconded to move the Draft Order of Conditions to Final Order of Conditions.** The motion carried unanimously. 6-0-0.

Mr. Costa acknowledged the board for their decision on the Perra case.

### 3) Reef Builders

Falmouth Engineering, Inc.

DEP File Number SE7-1944

124 Megansett Road, Cataumet

Raze and rebuild an existing dwelling including installation of a new Title V septic system, utilities, landscaping, grading and other appurtenances within AE and VE Flood Zones and within 100 feet of a Wetland Resource Area.

Michael Borselli of Falmouth Engineering, Inc., and Project Manager, Jim Haggerty, of Reef Builders, addressed the board. Mr. Borselli stated the property is currently under agreement for sale and the new owner is hopeful for a Positive Order of Conditions. Theresa Sprague of Blueflax Design was present to discuss the restoration of the buffer.

Mr. Borselli discussed the location of the property, the proposed project in detail, the DEP policy 92-1: Coastal Banks; and how it relates to the project.

Mr. Ligor asked for an outline on the plan to reflect how much of the new house would impede the Coastal Bank. A discussion ensued.

Ms. Sprague then discussed the existing vegetation and the proposed plan to restore the buffer to the wetlands.

Mr. Ligor discussed the possibility of disrupting wildlife. Ms. Sprague does not feel any wildlife will be disrupted with this project. A brief discussion ensued. Additionally, she discussed several trees that will need to be removed, the plan to replant 12 trees to replace them and the plan to install a roll out board walk which will lead to an existing dock.

A discussion transpired concerning the former agent's remarks pertaining to the Coastal Bank. Chm. Gray elaborated further. A brief discussion transpired pertaining to the history of the land.

Chm. Gray read a letter that was submitted from an abutter, Dr. Steven Minardo, of 130 Megansett Rd. Dr. Minardo supports this project. He stated the property has fallen into disrepair and has had to deal with trespassers who have left campfires smoldering.

Ms. Kiebala stated at one time, a former owner of the property had a lovely Japanese garden. Ms. Sprague will look for remnants of that garden.

Board Comment – No additional comment.

Public Comment – None.

Chm. Gray entertained a motion to close the public hearing. **Mr. Holmes moved to close the public hearing. Mr. Ligor seconded.** With no further discussion, the motion carried. 6-0-0.

Mr. Palumbo – Draft Order of Conditions: All General Conditions, Special Conditions pursuant to M.G.L. Chapter 131, Section 40, numbers 1-6, 9, 10, 12, 13, 16-24 and Special Conditions pursuant to the By-law numbers 4, 6-9. Special Conditions 20 & 24 and the By-law Conditions 4 & 6, shall continue in perpetuity.

Chm. Gray asked if any board members would like to add a Condition to the Draft.

With no additional Conditions made, **Ms. Kiebala moved and Mr. Ligor seconded to move the Draft Order of Conditions to Final Order of Conditions.** The motion carried. 6-0-0.

#### **Request for Certificate of Compliance**

1) R.W. Joy Construction, Inc.

Warwick & Associates, Inc. – Representative

DEP File Number – SE7-1886

10 Cleveland Circle, Gray Gables

Construct single family dwelling, including Title V septic system, utility installation and all associated clearing, grading, landscaping and appurtenances within an AE Flood Zone.

The former agent's recommendation is to grant the certificate. **Mr. Holmes moved to grant the certificate. Ms. Kiebala seconded.** With no discussion, the motion carried. 6-0-0.

2) Richard Kuchinsky

LEC Environmental – Representative

DEP File Number – SE7-1414

35 Pine Ridge Road, Buzzards Bay

Install 4 pilings for a boatlift on an existing dock within a VE Flood Zone and within a Wetland Resource Area.

The former agent's recommendation is to grant the certificate. **Mr. Ligor moved to grant the certificate. Mr. Holmes seconded.** With no discussion, the motion carried. 6-0-0.

### **Other Business**

Vote – Excuse Absent Members – Chm. Gray entertained a motion to excuse absent members. **Ms. Kiebala moved to excuse absent members. Mr. Holmes seconded.** With no discussion, the motion carried. 6-0-0.

*The former ZBA chair in Falmouth, who was in attendance, complimented the commission on their handling of the hearing.*

Approval of Minutes – Chm. Gray entertained a motion to approve the minutes of the May 5, 2016, meeting. Chm. Gray noted a minor typographical error. After a brief discussion, **Mr. Ligor moved to approve the minutes of the May 5, 2016, meeting with the correction. Ms. Kiebala seconded.** The motion carried 6-0-0.

### **III. Adjournment**

Chm. Gray entertained a motion to adjourn. **Mr. Palumbo moved to adjourn. Mr. Ligor seconded.** With no discussion, the motion carried. 6-0-0.

The meeting adjourned at 8:29 PM.

Minutes submitted by: Carol Mitchell