

RECEIVED

2016 AUG 23 AM 10:03

TOWN CLERK BOURNE

**Conservation Commission
Meeting Minutes**

Town Hall Lower Conference Room

24 Perry Ave., Buzzards Bay, MA 02532

July 14, 2016

I. Call to order

Chairman Robert M. Gray, called to order the meeting of the Conservation Commission at 7:00 PM on July 14, 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 introduced Conservation Agent, Sam Haines, to the members of the audience.

II. Members Present: Chm. Robert M. Gray, Thomas Ligor, Betsey Kiebala, Melvin P. Holmes, Susan Weston and Paul Szwed.

Excused Members – Robert Palumbo and Associate Member, Elise Leduc

Also Present: Sam Haines, Carol Mitchell, Zachary Basinski, Richard Rheinhardt, Amanda Crouch-Smith, Shannon Heino, Ken Sundman, Mike Pimental, Alex Joyce, Brenda Bagnell, and Barbara Frappier.

Request for Determination of Applicability:

1) Lynne C. Smith

Zack Basinski – Representative; Bracken Engineering

File Number CC16-33

270, 272 & 276 Scraggy Neck Road, Bourne

Vista pruning existing trees within AE & VE Flood Zone and within 100' of a Wetland Resource Area.

Chm. Gray recused himself from discussion and vote. He turned the meeting over to Mr. Holmes.

Zack Basinski of Bracken Engineering, briefly described the proposed project to the board.

Board Comment – None.

Agent Comment – Mr. Haines and Chm. Gray performed a site inspection on July 7, 2016. Mr. Haines discussed with the representative the clearing methods, the equipment that will be used and what will be removed. He has no issues with this project.

Public Comment – None.

Mr. Holmes entertained a motion for a Negative Two Determination. **Mr. Ligor moved and Ms. Kiebal seconded a Negative Two Determination.** The motion carried unanimously. 5-0-0.

Chm. Gray returned to chair the meeting.

2) Richard Rheinhardt

File Number CC16-34

96 Williams Avenue, Pocasset

Construct an elevated porch and wrap around deck within 100' of a Wetland Resource Area.

Richard Rheinhardt addressed the board. He referred to the submitted plans and explained he is seeking to construct a 12'x16' deck. He'd prefer to construct it with pilings; however, will construct a cantilever deck if necessary. He submitted the abutter's signatures and a photograph of the proposed location.

Agent Comment – Mr. Haines performed a site inspection on July 11, 2016, the work will be performed above an existing, maintained lawn; which borders a vegetative wetland. Mr. Haines questioned how equipment will access the site. Mr. Rheinhardt stated all equipment will be brought in by hand. Mr. Haines stated, as shown on the submitted plans, with a cantilever deck, he has no issues with the project.

Board Comment – Mr. Ligor asked if the deck will have a roof and walls. Mr. Rheinhardt stated the porch will have a roof and walls. Mr. Ligor stated when he thinks of a porch, it doesn't have a roof or walls; adding, it looks more like an addition. Mr. Rheinhardt stated he plans on having as much screen as possible with windows he can remove. He stated it's more like a 3 season room.

Ms. Weston questioned the proposed location, its proximity to the wetland, the location of clethra and if it will have an impact on the wetland line. Chm. Gray stated Sweet Pepperbush grows in both uplands and wetlands. A discussion pertaining to the distance of the house to the wetland line, the clethra line which is in between the two and the possibility of moving the porch to another location transpired.

Ms. Weston asked the agent if he was happy with the wetland line. Mr. Haines stated the wetland line wasn't flagged when he visited the property. Mr. Rheinhardt stated the wetland line was flagged in February last year when a new septic system was installed; so the line that's on the plan was previously approved.

Chm. Gray stated that if the porch is constructed with piles, that would trigger the Commission's full jurisdiction; cantilever would not; adding that the Commission would like to maintain the existing setback; and would not normally allow a proposed project to go any closer to the Resource Area other than what already exists.

Public Comment – None.

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

Chm. Gray explained the Determination to the applicant.

3) Colonial Gas Company

Amanda Crouch-Smith. – Representative; Tighe & Bond

File Number CC16-35

27-37 Studio Drive, Bourne

Installation of a gas line extension within 100' of a Wetland Resource Area.

Amanda Crouch-Smith addressed the board and explained the proposed project; to lay gas lines to deliver gas line services to homes in a residential neighborhood. She referred to the submitted plan which depicts the location of the existing gas main. She

also discussed the length of the gas line, the material it will be made of, how it will be laid and the location of the Coastal Bank/Buffer Zone.

Board Comment – Ms. Kiebala asked for clarification of the location of the existing gas line. Mr. Ligor asked Ms. Crouch-Smith to outline the location of the Coastal Bank and how far the trenching will be from the Coastal Bank. A discussion ensued.

Agent Comment – Mr. Haines performed a site inspection on July 11, 2016, noting that most of the installation will be performed through grass and not native vegetation. The landscape grade is generally away from the Resource Area toward the street, adding that it looks like a fairly standard utility installation.

Public Comment – Mr. Haines summarized written notification from an abutter, J. Kevin Burke, of 31 Studio Drive, who has several concerns regarding the project. The first is road damage, the second is that he'd like Mr. Sala of the Bourne Public Works to provide guidance during the road repair project, thirdly, he has social and safety concerns regarding natural gas and lastly, he provided lengthy history of the project.

Chm. Gray advised Mr. Haines to provide Mr. Burke with Mr. Sala's contact information adding that Mr. Burke's other concerns are not Conservation issues. Ms. Crouch-Smith stated the gas company will be working closely with DPW.

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

4) Chip Breed

Ken Sundman - Representative

File Number CC16-36

5 Mashnee Road, Gray Gables

Extending an existing deck and constructing a roof over the entire deck within an AE Flood Zone.

State Act only

Mr. Sundman addressed the board. He explained the existing deck is 12'x16', the proposed project would add a 6'x16' portion on to the side and a roof would be installed over the entire deck. The deck would require three footings. All excavation will be done by hand.

Agent Comment – Mr. Haines stated there is no vegetative wetlands anywhere near the site; in a Flood Zone only. He performed a site inspection on July 11, 2016, the property is completely flat and he has no concerns with the project.

Board Comment – A brief discussion pertaining to the length of the deck transpired.

Public Comment – None

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

Notice of Intent:

1) Repurpose Properties

J.C. Engineering - Representative

DEP File Number SE7-1945

24 Central Boulevard, Bourne

Raze an existing building and shed; construct a new dwelling and septic system; perform minor grading; and utility installation within an AE Flood Zone and Adjoining Land Area within ACEC.

Chm. Gray recused himself from discussion and vote. He turned the meeting over to Mr. Holmes.

Mike Pimental of J.C. Engineering, addressed the board and described the proposed project. He referred to the submitted plan to discuss the location of the Resource Areas. He stated they will save as many trees as possible.

Board Comment – Mr. Ligor asked for clarification on the number of trees that will be lost and the sizes of the trees that will be removed. He also asked whether or not vegetation/trees would be replaced, a discussion ensued.

Mr. Szwed asked for clarification of the location of Central Avenue.

Agent Comment – Mr. Haines performed a site inspection on July 7, 2016, he observed a small By-law only wetland on the adjoining parcel 30.2; Lot 85. The wetland is located approximately 50' from the existing house; but, it is 100' or more from any of the proposed new work. Mr. Haines' only concern is the equipment that will be brought in during the razing. He noted that the site has a lot of dumping; wood chips, metal

debris and feels it should be removed. A brief discussion transpired pertaining to how the debris got there and whether or not the house will be occupied once the work is completed. Mr. Pimental stated the property owner is planning on selling the property. Mr. Haines also discussed with the representative maintaining as many 8" in diameter mature trees as possible.

Public Comment – Attorney Alex Joyce, who represents the property owners and is also an abutter, supports the application and stated he's willing to provide the board history on the property if necessary.

Mr. Holmes entertained a motion to close the public hearing. **Ms. Kiebala moved to close the public hearing. Ms. Weston seconded.** With no further discussion, the motion carried unanimously. 5-0-0.

Mr. Haines - Draft Order of Conditions: All General Conditions, Special Conditions pursuant to M.G.L. Chapter 131, Section 40, numbers 1-6, 9, 10, 12, 16-24 and Special Conditions pursuant to the town By-law numbers 4, 7-9. Special Conditions 20 & 24 shall continue in perpetuity. With additional Conditions that the existing debris on the property must be removed as well as a Condition to maintain mature trees outside the existing work area. **Ms. Weston moved and Ms. Kiebala seconded to move the Draft Order of Conditions to Final Order of Conditions.** The motion carried unanimously. 5-0-0.

Chm. Gray returned to chair the meeting.

Request to Extend Order of Conditions

1) Michael and Sheila Giancola

DEP File Number – SE7-1860

45 Bell Bouy Road, Pocasset

Raze the existing and construct a new single family dwelling within AE Flood Zone and 100' from a Wetland Resource Area. Work includes installation of new Title 5 septic system, grading, landscaping and utilities.

Agent Comment – Mr. Haines spoke with the applicant, no work has been performed to date. They are requesting a 3 year extension of the Order of Conditions to build a home. Mr. Haines visited the property and confirmed no work has been performed.

Mr. Holmes moved to grant the extension. Ms. Weston seconded. Ms. Kiebala asked for the date of the original Order. Mr. Haines stated it was August 13, 2013. With no further discussion, the motion carried. 6-0-0.

2) Gerald L. Goveia and Brenda M. Bagnell

DEP File Number – SE7-1857

45 Phillips Road, Bourne

Continued maintenance of previously installed coir envelopes, sand, sand fence and plantings.

Ms. Bagnell addressed the committee and is requesting a 3 year extension of the Order of Conditions originally dated July 29, 2013. She explained that after the Nemo storm, quite a bit of property was lost. The original Order of Conditions was to allow the property owners to maintain previously installed coir envelopes, sand, sand fence and plantings; however, severe winter weather since the Order was granted has prevented the homeowners from completing the work.

Board Comment – Mr. Holmes clarified that nothing new would be added; the request is strictly for maintenance. Ms. Bagnell confirmed.

Ms. Kiebala inquired as to the effectiveness of the coir envelopes. Ms. Bagnell stated they are holding up well.

Agent Comment – Mr. Haines visited the site on July 14, 2016. He has no issues granting the extension.

Mr. Holmes moved to grant the extension. Ms. Kiebala seconded. With no discussion, the motion carried. 6-0-0.

Request for Certificate of Compliance

1) Richard A. Staples and Shirley A. Parkhurst

DEP File Number – SE7-1553

10 Tahonto Road

Raze and rebuild existing home, install new septic system, landscaping, grading and associated appurtenances within AE Flood Zone.

Agent Comment – Mr. Haines visited the site and stated no work has been done on the project.

Chm. Gray explained, in this case, the property owner applied for the permit to perform work; but, for whatever reason, nothing was done. The property is going to be changing hands; therefore, the property owner is looking to extinguish the old Order of Conditions.

Board Comment – Ms. Kiebala asked if the original request was from 3 years ago. Mr. Haines stated the original Order is now expired.

Ms. Weston asked why the Certificate of Compliance must be issued. Mr. Gray explained it's the only way to extinguish the original Order which is recorded at the Registry of Deeds. Adding, because no work was performed, the original Order of Conditions, which is a lien on the property, should be extinguished to remove the lien. Just because a permit was issued, there's no law stating you must carry out the Order of Conditions. A brief discussion ensued

The agent's recommendation is to grant the certificate.

Ms. Weston moved to grant the certificate. Mr. Holmes seconded. With no discussion, the motion carried. 6-0-0.

2) Richard Buttrick

David R. Maclean – Representative

DEP File Number – SE7-1937

31 Baxendale Road, Cataumet

Construct new beach stairs to replace existing deteriorating stairs in existing location within AE Flood Zone and within 100' of a Wetland Resource Area.

Agent Comment – Mr. Haines performed a site inspection on July 13, 2016. He submitted photos to the board and explained the landing is slightly larger than originally proposed; which was approved as an administrative change by the previous agent. The Bank appears stabilized with native plantings and seems well constructed. The agent's recommendation is to grant the certificate.

Board Comment – Ms. Kiebala asked if the larger landing has any negative impact. Mr. Haines stated it does not.

Mr. Holmes moved to grant the certificate. Mr. Ligor seconded. With no discussion, the motion carried. 6-0-0.

3) Sandy Hessler

Warwick & Associates, Inc. – Representative

DEP File Number – SE7-1514

3 Plow Penny Way, Bourne

Construct a walkway across the salt marsh in order to allow pedestrian access to the water.

Chm. Gray stated he made two site visits there with Barbara Frappier of Warwick & Associates. The property is changing hands, Chm. Gray met the seller and discussed the original Order of Conditions. Chm. Gray and Mr. Haines met the buyer at the site, who also wanted a site visit.

The board reviewed pictures of the site. Ms. Frappier explained that the original order needs to be extinguished in order for the property to be sold. A brief discussion ensued.

Chm. Gray explained that the walkway is 3 feet wide, it's approximately 5 feet above the salt marsh; which exceeds the 3 feet requirement and the salt marsh is thriving.

Ms. Frappier explained, one of the Conditions was to post signage to alert the public that there is no public access to the water. The board reviewed photos of the signage. A brief discussion ensued.

Agent Comment – Mr. Haines stated it appears the walkway was installed in a slightly different area than originally proposed; the deviation does not have a negative impact on any of the Resource Areas. The agent's recommendation is to grant the certificate.

Mr. Holmes inquired as to whether or not a new plan should be submitted reflecting the change in location. Ms. Frappier stated an as-built plan has been submitted. Mr. Haines stated the certificate will have ongoing Conditions.

Ms. Kieballa moved to grant the certificate. Mr. Holmes seconded. With no discussion, the motion carried. 6-0-0.

4) George Ajami

GAF Engineering Inc., - Representative

DEP File Number – SE7-1920

700 County Road, Bourne

Remove an existing post and rail fence and construct a retaining wall in the same location. Work to occur within 200' of the Pocasset River.

Agent Comment –Mr. Haines performed a site inspection on July 11, 2016, noting that the work appeared straight forward, the Bank was stable and looked constructed as proposed. The agent's recommendation is to grant the certificate.

Board Comment – None

Public Comment – Barbara Frappier questioned if the Order covered the revegetation. Mr. Haines stated this was for the construction of split rail fence and a retaining wall. A brief discussion transpired pertaining to a previous Order of Condition. Mr. Haines will research to see whether or not there is an open Order for this property.

Mr. Ligor moved to grant the certificate. Mr. Holmes seconded. With no discussion, the motion carried. 6-0-0.

Other Business

- Public Notice: The Buzzards Bay Water District has applied to the Massachusetts Department of Environmental Protection Water Management Act Program for a permit to increase the registered and permitted withdrawal volume.

Chm. Gray asked if this requires any action from the commission. Mr. Haines indicated it did not. The board was pleased that Mr. Haines kept them informed of the request.

- Notification to Conservation Commission from Eversource Energy regarding routine repair and maintenance of existing access roads between Minuteman Lane and Plymouth/Bourne town line.

Mr. Holmes opened a brief discussion pertaining to an article he read in the newspaper surrounding Eversource and herbicide issues with other towns.

Chm. Gray asked if this requires any action from the commission. Mr. Haines stated to his knowledge it did not; it was just a notification of routine maintenance. A brief discussion ensued.

- Notice from National Grid of utility maintenance activities along Bayside Lane between properties 3 through 11 in the Bennets Neck area of Pocasset.

Mr. Haines stated this is a similar notification informing the board of routine maintenance. No board action is required.

- Notice of license application pursuant to M.G.L. Chapter 91 Waterways Application Number W16-4685 Kingman Yacht Center.

A brief discussion transpired pertaining to their request to establish a Reconfiguration Zone.

- 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.

- Any other business that may legally come before the Commission – Chm. Gray informed the board that the BOS meeting scheduled for the 19th has been rescheduled to the 26th. Mr. Haines stated the BOS has asked him to notify abutters. A discussion ensued.

- Report of the Conservation Agent - None

- Questions and Answers re: M.G.L. Chapter 131 s. 40 and 310 CMR 10.00-10.99 - None

- Questions and Answers re: Town of Bourne Wetland Protection By-law (Article 3.7) and BWR 1.00-1.16 - None

III. Adjournment

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

The meeting adjourned at 8:20 PM.

Minutes submitted by: Carol Mitchell