

**Town of Bourne
Conservation Commission
Remote Meeting Minutes
May 20th, 2021**

The Conservation Commission meeting was called to order at 7pm via Zoom platform. Per the office of the Governor's Order suspending certain provisions of the Open Meeting Law Due to the Covid-19 outbreak public comment will be limited to remote accessed during the hearing. Chm. Gray explained all reviews, unless otherwise stated, are joint reviews. Applications will be processed pursuant to the Massachusetts Wetlands Protection Act, M.G.L. c. 131, § 40 and pursuant to Article 3.7 of the Town of Bourne Wetlands Protection Bylaw. Chm. Gray addressed the audience and explained the rules; which allows the applicant or representative to make a presentation to the Commission members, Commission members will seek clarification if needed, the Conservation agent will also give a report and then questions from the public are allowed.

All Materials Reviewed: Site Photographs, Site Plan of Record and DEP Wetlands Change Mapping.

Members present by remote: Chm. Gray, Thomas Ligor, Melvin Peter Holmes, Greg Berman, Paul Szwed and Steven Solbo Jr.

Excused members: Elise Leduc and Rob Palumbo

Others in attendance by remote: Samuel Haines, Mike Borselli, Zac Basinski and John Duggan.

Chm. Gray excused himself from the first review.

Request for Determination

1. **File Number: CC21-13 Brian Oberacker c/o Zac Basinski P.E. of Bracken Engineering, Inc.** represented on behalf of owner at **9 Salt Marsh Lane, Pocasset.** Mr. Basinski explained the proposed project which is a simple upgrade of the septic system, removing three cesspools and replacing with a new Title 5 compliant system; This is a flat lot in the A flood zone and returning to existing grade. **Meeting under State Act only**
Agent comment: Mr. Haines agreed on the replacement of the three cesspools on a flat lot in the A flood zone and had no issues with the proposed project.
No public comment.

Motion made by Mr. Holmes for a **Negative Two Determination** and seconded by Mr. Ligor.

Roll call Vote: Mr. Ligor - yes, Mr. Berman- yes, Mr. Holmes – yes, Mr. Szwed- yes and Chm. Gray- Abstained. **Motion carried 4-0-1.**

Chm. Gray back as chair.

Notice of Intent

1. **DEP File No. SE7-2148 Richard and Janie Boylan c/o of Falmouth Engineering, Inc.** Mr. Borselli explained the proposed project to remove existing cesspools and to install a new Title 5 septic system within an AE Flood Zone, V Flood Zone and within 100 ft. of a wetland resource area. This project is located at **96 Rocky Point Road, Gray Gables.** Mr. Borselli explained there would be no increase in bedroom count, strictly an upgrade of a cesspool failure. Unfortunately it

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cannot meet the Local Health Regulation of 150' from a wetland resource area, which they have applied for variances from the Board of Health.

Mr. Haines said they will have to upgrade the existing erosion controls prior to excavation but otherwise, cannot see a good alternative location for this system. He was disappointed to see a traditional Title 5 system installed on this property. Since this system is within 50' of the resource areas it is not automatically assumed that the system meets performance standards.

The Commission members discussed concerns and agreed to condition the Order that the high value of the habitat should require a nitrogen reduction I/A system and that a letter from the Conservation agent recommending these concerns to the Board of Health's expertise of the matter.

No public comments.

Motion made by Mr. Holmes to have the Conservation Agent write a letter to the Board of Health expressing their concerns, and their respect to the nitrogen reduction I/A system and seconded by Mr. Szwed.

Mr. Ligor lost audio connection and signed out of the Zoom meeting.

Roll call vote: Mr. Holmes - yes, Mr. Berman - yes, Szwed - yes, Chm. Gray - yes

Motion Carried 4-0-0. *Continued to June 3, 2021.*

2. **DEP File No. SE7-2149 Charles Primmerman c/o of Falmouth Engineering, Inc.** Mr. Borselli explained the demolition and removal of the existing house and garage and the construction of a new house located at **110 Circuit Avenue, Pocasset**. The existing septic tank and pump chamber to be pumped, cleaned and relocated. Mr. Borselli explained that the new structure will fit in the same location and not further impinge on the resource area buffers. They were successful for the most part except for one location and that is an open deck that connects to a covered porch. The open deck hangs over the top of the coastal bank about one foot. There is a very stable non eroding grassy slope that is part of the landscape. Mr. Borselli showed on the plan areas where they pulled back the existing house and that it is just the one piece of open deck that will be over. They intend to have the deck supported by sonotubes upland from the top of the coastal bank and from the sonotubes out would be cantilevered. Mr. Borselli explained the coastal bank function is storm damage prevention and flood control and that it is not a sediment source. Mr. Borselli said because of the setback for the leaching field they couldn't put the house any closer towards the Park Street side and that an application to the Zoning Board of Appeals was pending per architect. The project is located within an AE flood zone, V flood Zone and 100 ft. of a wetland resource area

Mr. Haines said this is a property across the road from the beach & salt marsh and contains a non-eroding coastal bank. They are not proposing any grade changes that he could see so he didn't think there will be an adverse impact to the resource area but the deck has been placed on the bank on the SW side. The narrative says all work is in buffer but that is not how the plan read and this would not conform to past precedent.

Mr. Berman said he'd be concerned if the pilings were in the coastal bank and he agreed with the cantilevering.

No public comment.

Motion made by Mr. Holmes to close the public hearing and seconded by Mr. Berman.

Roll Call: Mr. Holmes - yes, Mr. Berman - yes, Mr. Szwed - yes, Chm. Gray - yes

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Mr. Haines read the draft order: *All general conditions and special conditions pursuant to the Massachusetts Wetlands Protection Act, M.G.L. c. 131, § 40. 1, 2, 3, 4, 5, 7, 9 10, 11, 12, 14, 15, 16, 18, 19, 27, 28 and 29.* Mr. Haines did not find it necessary to include any bylaw conditions. Motion made in second to move draft to the final.

Roll Call Vote: Mr. Holmes - yes, Mr. Berman – yes, Mr. Szwed – yes and Chm. Gray - yes.
Motion carried 4-0-0.

Chm. Gray recused himself from the next review. Associate member Mr. Solbo Jr. voted in place to make the quorum.

3. DEP File No. SE7-2151 Dennis and Tanya Ford c/o of Bracken Engineering, Inc. Mr.

Basinski explained the repair and upgrade proposal to install a new Title 5 septic system/ new nitrogen reduction I/A system, including associated grading and landscaping within 100 ft. of a wetland resource area located at **18 Warren Rd, Gray Gables.**

Zac Basinski P.E. Bracken Engineering, Inc. represented on behalf of the applicants. This is an existing developed single family house lot. The proposed project is a repair and upgrade of the septic system. Given the lot constraints the septic will be placed far away from the resource area of Cedar Pond and 76 ft. from the top of coastal bank. This is a new I/A nitrogen reduction septic system which is reducing from 13.7ppm down to 7.8 ppm, it is an existing 4 bedroom house which will remain 4 bedrooms after the renovations. The erosion controls on site will be a Media Soxx barrier.

Mr. Haines said it is pretty straightforward and had no issues with project as designed.

No Public Comment.

Motion made by Mr. Solbo Jr. to close the public hearing and seconded by Mr. Szwed.

Mr. Haines read the draft Order: *All general conditions and special conditions pursuant to the Massachusetts Wetlands Protection Act, M.G.L. c. 131, § 40. 1, 2, 3, 5, 7, 9, 10, 11, 12, 14, 15, 18, 19, 21, 27 and 28. Special conditions pursuant to the bylaw include 2 & 4.* Motion made by Mr. Szwed to move the draft to the final and seconded by Mr. Solbo Jr.

Roll Call Vote: Mr. Berman – yes, Mr. Holmes - yes, Mr. Solbo Jr. – yes, Mr. Szwed-yes and Chm gray-abstained. **Motion carried 4-0-1.**

Chm. Gray returned as chairman.

4. DEP File No. SE7-2142, 118 Old Dam Road, Monument Beach. Mr. Haines represented with written permission on behalf of J. E. Landers Cauley, who could not attend the meeting. The proposed project was to repair a failed septic system to include grading, landscaping, loam, and seeding within an AE flood zone, within 100 ft. of a wetland resource area and within 200 ft. of a river front. Mr. Haines shared the plan on the screen and explained that he had no issues with the septic system installation and the denitrification system is clearly an upgrade over what is existing. Mr. Haines did identify some clearing of the coastal bank without a permit so the revised plan has proposed restoration of that area.

Mr. Berman asked to describe the mitigation plantings. Mr. Haines described the plantings proposed of the entire coastal bank, which will be well planted with Arrowwood and Pasture Rose; spacing 1 gallon pots, 50 plants on a pretty small site. Mr. Szwed asked what was being cut. Mr. Haines explained it was mostly invasive species on a slope.

No public comment.

Motion made by Mr. Holmes to close the public hearing and seconded by Mr. Szwed.

Roll Call Vote: Mr. Holmes - yes, Mr. Berman - yes, Mr. Szwed - yes, Chm. Gray - yes.

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Mr. Haines read the draft Order of Conditions: *All general conditions and special conditions pursuant to the Massachusetts Wetlands Protection Act, M.G.L. c. 131, § 40. 1, 2, 3, 4, 5, 7, 9, 10, 11, 12, 14, 15, 18, 19, 21, 22, 26, 27, 28.* Under bylaw number 4. No additional special conditions.

Motion: Mr. Holmes makes a motion to move draft to the final and seconded by Mr. Szwed-Second.

Roll Call Vote: Mr. Holmes - yes, Mr. Berman - yes, Mr. Szwed – yes and Chm. Gray - yes

Motion carried 4-0-0.

- 5. DEP File No. SE7-2150 18 Spindrift Lane, Gray Gables.** Zac Basinski P.E. of Bracken Engineering represented on behalf of Vincent P. Michienzi. The proposed project was to install a new Title 5 septic system, including associated grading and landscaping within an AE Flood Zone, and within 100 ft. of a wetland resource area.
- Mr. Basinski requested a continuance, needs further evaluation of a possible violation.
- Mr. Haines said that it looks like someone did some clearing and filling on this bank. A lot of old debris has been dumped on the bank. The septic in the coastal bank is ok with him as long as they regrade it. This is about the best spot for reducing nitrogen migration. *Continued to June 3, 2021.*
- 6. DEP File No. SE7- 2147 45 Standish Road, Sagamore Beach.** Zac Basinski P.E. of Bracken Engineering represented on behalf of owners Christopher & Amy McElman. Also in attendance was builder John Duggan. Mr. Basinski explained the proposed project is to construct a single family dwelling and installation of a new Title 5 septic system, including all associated grading, landscaping, utilities, and appurtenances within 100 ft. of a wetland resource area. Mr. Basinski said the project came before the Commission back in February but there was additional resource areas on the lot they needed to evaluate. Brad Holmes from ECR flagged a small IVW in the front portion of the lot. A prior filing from a previous owner had been denied because it was believed this area was subject to flooding. There had been some incidents during frozen events that would cause the road run off to over flood and then go subtly on this property. That case never got through the Commission and went through a court case. Since that was brought to their attention they got a hold of the court case and Mr. Basinski said they recreated the old storm water report and have done the calculations for the lot. The sticking point was that the previous owners did not want to do the calculations for ILSF excluding exfiltration from the property. That would have made smaller limits on the property. They agreed to do those calculations and with that determined land subject to flooding on a one year storm event. Mr. Basinski compared that to a 100 year storm event and calculated the water build up to elevation 16.48. Support letters were submitted from the abutting properties for this new project. There haven't been any reports of flooding into the road from this property and the report was based on frozen events. The property owners were able to obtain a back lot driveway easement to avoid the IVW and not disturb the 50 ft. buffer. They believe they have met all the performance standards.
- Mr. Haines said this is a revised plan which acknowledges the ILSF determined under a previous DEP decision. All work is located outside of the ILSF so there will not be any impacts to storm water retention and the fact that this is buffer to ILSF I believe that this could be bylaw only but since we have a DEP file Number we will proceed with that. 131.40 does not have a buffer to ILSF and doubts the intent of the bylaw was to have one either except where there are vegetated wetlands but you certainly could interpret the language to read that way. Mr. Haines noted he tends to think this would be a bit overkill since we do not apply it to coastal flood zones. But that

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is ultimately up to the Commission and if they feel the buffer applies then this project would need a variance from the bylaw setback.

Mr. Szwed asked if past flooding was part of the calculations. Mr. Basinski explained that the last flooding was from storm events, and only flooded because the ground was frozen. Mr. Solbo Jr. asked about vernal pools. Mr. Haines noted he went out 2-3 times for a site visit in the spring during amphibian migration season and noted no standing water. Mr. Haines asked the coordination of removing the fuel oil tank. Mr. Duggan has a draft agreement with owner for the permission to remove the fuel oil tank and carry the liability. Mr. Haines noted that it is in the Isolated Land Subject to Flooding and a condition that the above ground fuel oil tank must be removed.

No Public comments.

Motion made by Mr. Szwed to close the hearing and seconded by Mr. Solbo Jr.

Mr. Haines read the draft Order: *All general conditions and special conditions pursuant to the Massachusetts Wetlands Protection Act, M.G.L. c. 131, § 40. 1, 2, 3, 5, 7, 9, 10, 11, 12, 14, 15, 16, 18, 19, 21, 27, 28 and 29. Special conditions pursuant to the Wetlands Bylaw include 2 & 4; with additional proper removal and disposal of onsite fuel tank.*

Mr. Solbo Jr. made a motion to move the draft to the final and seconded by Mr. Berman. .

Roll Call Vote: Mr. Berman - yes, Mr. Szwed - Yes, Mr. Solbo Jr. – yes and Mr. Holmes-yes.

Chm Gray- abstained. **Motion carried 4-0-1.**

Request to Extend Order of Conditions

1. **DEP File No. SE7-2017 464 Scraggy Neck Rd, Cataumet.** Holmes and McGrath, Inc. represented on behalf of owners Robert G & Kathleen F IX. The proposed project is the demolition and reconstruction of an existing single family house with appurtenances within an AE flood zone and within a 100 ft. of a wetland resource area.

Agent comment: Mr. Haines said they asked for a 1 year extension for some landscaping and finishing touches. He saw no reason to deny it.

No Public comments.

Motion made by Mr. Holmes to grant a one year extension on order of conditions and seconded by Mr. Berman.

Roll Call Vote: Mr. Holmes - yes, Mr. Berman-yes, Mr. Szwed – yes and Chm. Gray - yes.

Motion carried 4-0-0.

Report of the Conservation Agent

The members discussed the future of Zoom vs. in person meetings. There was not enough information at this time to vote. Mr. Haines said that Town hall will be opening back up to the public on June 1st, 2021. He would like the ability to continue Zoom through the summer. He said that the only issue is that he has the ability to sign the signature pages on behalf of the Commission and believed that ability will be done once the emergency is over on June 15th, 2021.

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Meeting adjourned 8:20 pm.

Minutes typed by Amalia Amado, Conservation secretary II.

Recorded by the Zoom platform.