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## Conservation Commission

### Meeting Minutes

Zoom Meeting Platform

October 7, 2021

2022 MAR -8 AM 9: 53

TOWN CLERK BOURNE

#### I. Call to Order

Madam Chair Leduc called to order the meeting of the Conservation Commission at 7:00PM on Thursday October 7, 2021, held via Zoom Platform. Madam Chair. Leduc explained all reviews, unless otherwise stated are joint reviews. Applications will be processed pursuant to the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131 § 40, Article 3.7 of the Town of Bourne Wetlands Protection Bylaw. If the Act or the Bylaw don't mutually apply to the review, it will be indicated at the time of review which instrument of law they will be reviewed under.

Madam Chair also reviewed the 5-5-5 Rule which allows the applicant or representative to make a five (5) minute presentation to the Commission Members, Commission Members will then take five (5) minutes to seek additional information if necessary, and then the public will be allowed five (5) minutes for comment.

Note: The meeting was being held via the Zoom platform, and was being recorded, as noted per the "Recording in Progress" icon that was displayed. The proceeding listing of matters are those reasonably anticipated by the Chair which may be discussed at the meeting. Not all items listed may be discussed, and other items not listed may be discussed due to the limited extent permitted by the Open Meeting Law. All items within the meeting agenda are subject to deliberation and vote(s) by the Conservation Commission.

**Members present:** Elise Leduc, Tom Ligor, Paul Szwed, Peter Holmes, and Greg Berman

**Excused Members:** Bob Gray, Steve Solbo, Rob Palumbo

**Others in Attendance:** Sam Haines, Richard Selby, "Cyndy," Matt Costa, Bob Bishop, Patrick Ross, Joe McGurl, Wayne Tavares, "Charlotte," Amy Sharpe, Mark Dibb, Michael Inctocci, , Keri Holland, Mike Ball, Jeff, Buttrick, Dan Ward, "Kat's iPhone," "Nancy's iPhone," Raul Lizardi

**Continuances:**

Jonathan and Carol Pettee Family Trustees  
68 Rocky Point Road -- Continued to November 4, 2021

Champe A. Fisher, Jr.  
4 Fisher Lane -- Continued to October 21, 2021

Sarah E. Fisher  
8 Fisher Lane -- Continued to October 21, 2021

Andrew Laurence  
83 Elgin Road -- Continued to October 21, 2021

JMC Realty Trust  
534 Scraggy Neck Road -- Continued to November 4, 2021

William and Rosemary Dalton  
140 Eel Pond Road -- Continued to November 4, 2021

**Request for Determination:**

1. Applicant: Patrick Ross  
Representative: N/A  
Project Address: 6 Benedict Road, Gray Gables  
Proposed Project: Kelp lines on existing aquaculture sites off Mashnee Dike and Toby Island

Mr. Ross addressed the board and shared his screen due to the nature of the meeting. He states that the proposed project would include two test kelp lines that would be placed in two previously permitted locations (West of Toby's Island, and the other along the Mashnee Dike on the canal-facing side). The proposed project is just to introduce a new species of kelp to the locations. Mr. Ross states there is a grey area with adding these kelp lines to the previously permitted locations due to the fact that they are a new species. Mr. Ross reviewed the process that would need to be taken to present the plan to the Army Corp. of Engineers if and when the project plan was to be approved by the Commission. Mr. Haines commented and requested clarification regarding the species of kelp being "new" but not invasive and still "native." Mr. Ross clarified that the species that will be introduced to these kelp lines is native to the area, and

cultivated in Woods Hole. Mr. Haines confirms and appreciates the clarification. Mr. Haines comments on further clarification, stating that the kelp lines would be moored within the existing aquaculture areas that had previously been approved under a Notice of Intent application, and this proposed project is just requesting to provide additional structure within those previously approved areas. He does not believe there would be any more adverse impact to the areas that have already been approved by the Commission. A negative determination would allow Mr. Ross to move forward with the process. Mr. Szwed comments that he likes the idea of the introduction of the sugar kelp, but does also submit one question. He is questioning whether both sites have adequate depth in order to move forward with the kelp line project. Mr. Ross states that the lines that are being proposed include one line at each site that will be test lines, and they will only exist during the winter. They will be deployed in mid-November, and harvested some times in April/May. Mr. Ross does confirm that the site by Toby's Island is a more traditional depth for kelp lines. The site by the Mashnee Dike is even more experimental in testing a project done on an oyster farm in New York by Stony Brook University. That project experimented with kelp lines at a more shallow depth, with a greater current, and was successful. Mr. Ross states the attempts is to trial this method in the location by the Mashnee Dike as there are similar conditions at the location of the Stony Brook University site. Mr. Berman comments that he does like the idea of broadening the pool. He then questions clarification on whether kelp remove nutrients from the water, and also at what depth the lateral line will be at once placed. He states he has concern for potential water fowl to roost on the lines. Mr. Ross confirms that kelp does store carbon and nitrogen, so there is positive environmental impact on introducing the kelp. In regards to the line depth, Mr. Ross states that the kelp lines will both be suspended close to surface of the water at the maximum length of the kelp growth, which is presumed to be about six feet in length. Mr. Ross states that water fowl will not be able to sit along the lines. Mr. Ligor comments that he believes this project deserves a lot of merit, and wishes Mr. Ross luck with the project. Mr. Holmes has no comments. Ms. Leduc has no comment.

*Public comment:* None.

**Motion moved by Mr. Ligor, and Mr. Holmes seconded and Negative Two Determination.** Roll call performed: Mr. Szwed yes, Mr. Berman yes, Mr. Ligor yes, Mr. Holmes yes, Ms. Leduc yes. **Motion carries 5-0-0.**

## **Notice of Intent:**

1. Applicant: Randy Rogers  
Address: 31 Tahanto Road, Pocasset  
Representative: Marsh Matters Environmental  
File Number: SE7-2170

Proposed septic system upgrade.

Mike Ball addressed the board and described the plan being a complete septic upgrade, including a 1,500 gallon "micro-fast" septic tank, and a new leeching field, for a small two-bedroom cottage on 0.13 acre of property on the Bennett's Neck Peninsula. Mr. Ball addresses the areas of resource surrounding the location: Pocasset River, salt marsh coastal bank, land subject to coastal storm flowage, and river front area. Mr. Haines then shares Mr. Ball's screen. Mr. Ball informs the board that due to location of the home to both the river and the road, the leeching area will be placed as close to the road as possible. Portions of the system were going to be within 50' of the top of the coastal bank had the system not been pushed as close to the road as it is being presented. This was a revised plan, and was submitted to both DEP and the Conservation Commission. Mr. Ball states that all resource area standards are being met, but variances are being requested as necessary to place this type of system. A new water service will be being added as well. The existing cesspool will be pumped, backfilled with clean sand, and abandoned. Mr. Ball opens the discussion to questions. Mr. Haines comments. He states this project is a pretty straightforward septic replacement. Mr. Haines does mention that even with the proposed plan does not automatically meet the performance standards, being that it is within the 100' Buffer Zone, and some portions within the 50' Buffer Zone and the river run, it is as far away as it is going to be able to get from the resource area and still be within the boundaries of the property. He also states that the updated system is a great improvement over the system that is currently there, as it includes a denitrification system, and he feels that it does meet the performance standards. Ms. Leduc questions whether this location has town property on it that has been being maintained by the public. Mr. Haines confirms this is accurate, but does not want to hold up the replacement of the septic system for that discussion. He does believe that a conversation at a later time should be initiated to introduce a buffer along the river system. The conversation would need to be coordinated with the selectman, as the land is owned by them. Ms. Leduc agrees.

*Member comment:* Mr. Berman does agree that the town property issue should be discussed at a later time, including storage of boats and sheds that he would like to discuss as well, no comment regarding the septic system proposal. Mr. Haines responds that there are dinghy and kayak racks that are going to be placed in a centralized location to rectify this situation. No additional member comment.

*Public comment:* None

**Motion moved by Mr. Holmes, Mr. Ligor seconds the motion to close the hearing.** Roll call performed: Mr. Holmes yes, Mr. Szwed yes, Mr. Ligor yes, Mr. Berman yes, Ms. Leduc yes. **Motion carries 5-0-0.**

Draft order of conditions pursuant to 131 40 include 1, 2, 3, 5, 7, 9, 10, 11, 12, 14, 15, 18, 19, 21, 27, 28, 29. No additional special conditions requested.

**Motion made by Mr. Holmes, Mr. Ligor seconds the motion to move the draft order to final, and issue Order of Conditions.** Roll call is performed: Mr. Holmes yes, Mr. Szwed yes, Mr. Ligor yes. Mr. Berman yes, Ms. Leduc yes. **Motion carries 5-0-0.** Order of Conditions is granted.

2. Applicant: Cape Club Building, Inc.  
Project Address: 96 Megansett Road, Cataumet  
Representative: Cape and Islands Engineering, Inc.  
File Number: SE7-2171

To raze existing cottage/dwellings, utilize the existing shed for storage, and remove a portion of one of the existing dwellings to be converted into a covered, open-air patio with a rinse station, ½ bath, and outdoor kitchen area. Construct and maintain a new single-family dwelling with attached garage, decks, steps, covered porch, A/C, generator, in-ground swimming pool, driveways, retaining walls, fire pit, and to utilize the existing Title V sewage disposal system.

Marc Dibb addressed the board and shares his screen due to the nature of the meeting. Mr. Dibb reviews the existing conditions and resource areas. The first plan that is shown has been amended to show the existing conditions and the proposed conditions separately. Mr. Dibb states that the property is located to the East of Squeteague Harbor. Currently on the property there are existing facilities that were previously utilized as a summer camp by the Animal Rescue League. The existing septic system is mentioned, as it is being proposed to stay, that it is designed for about 1,700 gallons per day. The resource areas on the site are a

river front area, with the 100' and 200' Buffer Zones shown on the plans, there is also a salt marsh with the 100' Buffer Zone noted on the plan, a portion of the site is an AE elevation 15 Flood Zone, and a coastal bank through the site as well. Mr. Dibb states that the proposed plan is to raze two buildings on the property, with the exception of the shed, which is to remain for storage. A new dwelling is being proposed, with a circular driveway, with garage access, patio and in-ground pool, a tennis court, and screening around the outer edge of the property. The dwelling that is closest to the coastal bank is being proposed to be removed, but replaced by a covered porch in a nearly similar location. There will be work done in the Buffer Zone of the salt marsh, which includes removal of pavement, the build of the in-ground pool, and building of a dwelling. Mr. Dibb mentions that all of the work that is being done in the Buffer Zone will be done in areas that have already previously been disturbed and maintained. He then moves to the work that is proposed to be done in the river front area. The work that would take place there would actually be decreasing impervious surfaces in the 0-100' Buffer Zone with planting grass and seed mix, as well as woody shrubs and trees, due to the fact that they will be increasing impervious areas in the 100-200' Buffer Zone. Per the Wetlands Protection Act, there needs to be a 1:1 ratio of the amount of area disturbed, versus the amount of area mitigated. Specifics are mapped out on the plans. The disturbance will be greater than one acre, and a storm water permit will be required, and applied for per Mr. Dibb. Mr. Dibb opens to questions.

Mr. Haines comments that he feels that there is "a lot going on for a single plan." A proposed and existing conditions plan were requested, and provided. Mr. Haines believes there still may be some confusion on the plans in regards to grades, etc., but he will leave the final decision up to the Commission regarding that information. Mr. Haines re-iterates that the project will be subject to the town's storm water zoning bylaw, as the proposed project would be disturbing greater than an acre of land. Due to the fact that the project is within jurisdiction of the Conservation Commission, they are the regulatory authority on the bylaw for this project. MS4 requirements need to be met. Ms. Leduc requests confirmation that this has not yet been done. Mr. Haines confirms that it has not yet been done as the applicant/representative were not aware of this information until Tuesday, October 5, 2021. Mr. Haines also disagrees with the salt marsh delineation that is provided in the proposed plan, specifically in the location of where the covered porch and deck are proposed to be built. Mr. Haines states that he saw salt tolerant vegetation landward of the delineation provided on the plan. He has asked that the representative provide the highest spring tide delineation, including documentation on how that information was obtained, on a revised plan, which would show where the limit of the salt marsh is. Mr. Haines believes that

the dwelling that is proposed be rebuilt as a covered porch/deck is actually inside the salt marsh, or where the salt marsh, and would suggest investigating whether that could be moved landward. He believes that structure is having an adverse effect on the salt marsh, and that it should not be allowed to be replaced in the same location. Given the level of alteration of the plans, as well as the request for all additional information, Mr. Haines suggests the Commission seek a peer review from a third party as allowed under state and bylaw regulations. He has received a quote from a potential third party peer reviewer, and now presented that information to the Commission.

*Member comment:* Mr. Szwed comments that he believes that the project is very comprehensive in scope. He would recommend a site visit, and agrees with a peer review as well. Mr. Szwed does question the mitigation that was proposed in the plan. Mr. Haines confirms that there is pavement in the area that has been proposed to be mitigated, but agrees this plan is quite complex, and also has enough interest from abutters as well, that a site visit would be appropriate. Mr. Ligor, and Mr. Holmes agree a site visit would be appropriate as well. Mr. Berman agrees with a site visit, and also has questions regarding the 100' river front area, as well as two coastal banks, go through the proposed area for the in-ground pool. He would like to see that area in person. And in regards to the structure proposed to be converted into a covered porch, confirming it will include a bathroom, and questions how it will all work as that structure will intersect the V Zone as a structure. Mr. Berman also agreeable to this plan being peer reviewed. No additional member comment.

Mr. Dibb responds to the board. He is agreeable to a site visit, and is willing to address the concerns that were provided.

*Public comment:* Prior to public comment ensuing, Mr. Haines reminds the public to be polite to each other, and that everything goes through the chair as the public is speaking to the Commission, not directly to each other. Michael Intocci, developer and owner of the property, initiates the comments. He states that he has no issue with a site visit, he has no issue providing financing for a peer review. He does provide the information that they have had engineers out working on the plan and looking at the property, but he has no problem with someone checking their work. Mr. Intocci states that he also has no issue moving the structure that is proposed to be converted into the covered porch further inland away from what is believed to be the salt marsh. He would like to work with the Commission. He does state that he is trying to sell the property, so he is on a time limit. William Grant provides additional comment. He questions whether the Commission has

authority, being that the property is on Squeteague Harbor, that the septic system requires nitrogen removal. He is concerned that the nitrogen from this project is going to go right into Squeteague Harbor, as Title V does not require nitrogen removal. Mr. Haines offers to comment. Ms. Leduc grants Mr. Haines permission to comment. Mr. Haines that in this case, the majority of the components of the septic system are actually located outside of the Conservation Commission's jurisdiction. Also under the Wetlands Protection Act, an exemption is mentioned that if the septic is further than 50' from the resource center, and that it meets Title V requirements, it automatically meets the performance standards of the Wetlands Protection Act. Mr. Haines states that for this particular filing, the Commission does not have the ability to regulate or require a denitrification system. The Board of Health has been made aware of the proposed plan. Mr. Grant questions whether the Board of Health would hold a public hearing. Mr. Haines responds that that would be likely, but he hesitates to speak for the Board of Health. Mr. Grant requests clarification as to what point this matter would go to the Board of Health. Mr. Haines responds that in the town of Bourne, the Conservation Commission reviews the project, sets and approves the delineation boundaries, the plan is then sent to the Board of Health. Mr. Haines also states that the Board of Health would be the governing body to determine whether the septic system would be appropriate for this area, again, once everything has gone through and been approved by the Conservation Commission. Kat Brennan has questions regarding the next agenda item, which is held until that filing begins being discussed. Joe McGurl had a question about the nitrogen as well. He then questions whether the plan has met Conservation Commission guidelines in regards to variances. Mr. Haines responds that there is technically no language under the bylaw speaking to variances. The Conservation Commission has jurisdiction within all of the aforementioned resource areas, and performance standards that have to be met, which is the discussion that is happening at the present time. Mr. McGurl has similar concerns to the Commission regarding the structure that is proposed to be a covered porch with bathroom. No additional public comment.

Mr. Berman questions a letter that was provided by the Buzzards Bay Coalition with concern regarding the nitrogen impacts into Squeteague Harbor. Due to the nature of the regulations, it is not believed that the Conservation Commission has jurisdiction to require any anything beyond Title V requirements if it is appropriate. Ms. Leduc confirms that the proposal will be continued pending a site visit. She questions the previous suggestion for a third party review. Mr. Haines provides the quote that was obtained for a peer review, so as to not hold



up the project any longer than necessary. Mr. Intocci agrees to the cost of the quote.

**Vote for third party review:** Mr. Holmes yes, Mr. Ligor yes, Mr. Szwed yes, Mr. Berman yes, Ms. Leduc yes. **Vote passes 5-0-0.**

**Continuance requested to October 21, 2021 pending site visit and peer review. Continuance granted.**

3. Applicant: Cape Club Building  
Address: 96 Megansett Road, Pocasset  
Representative: Cape and Island Engineering, Inc.  
File Number: SE7-2172

Construction, licensing, and maintenance of an access ramp leading to a walkway, pier, ramp, and float, in the waters of Squeteague Harbor. Additionally, perform dredging to regain water depth adequate for boating access to and from the proposed float pier at 96 Megansett Road.

Marc Dibb addresses the board, and again shares his screen. The detail of the dock build is provided, as well as the length to the other side of the water body. He then addresses the plan for the dredging, with the goal of achieving a channel depth of three (3) feet beneath mean low water. A profile of the pier has also been provided, in addition to the distances the pier will span, which is 71' of a walkway, according to the bylaws, then over the salt marsh, and at the limit of salt marsh, a 50' proposed dock. Mr. Dibb states that following comments that were received from Mr. Haines, a detailed construction protocol and sequencing plan will need to be provided. Mr. Dibb then opens to questions.

Mr. Haines comments that there are issues with the bylaw. He begins with the measurement of the channel as being 252' feet. He believes this measurement has been provided at an angle, not straight across the channel, which was found to be 160' from edge to edge. Additionally, Mr. Haines states that the length of the pier is 68.7' from the surveyed mean high water line, which exceeds the 1/5 length as stated in the bylaw (BWR 1.16(e)2 "no pier shall be allowed where the length of the pier extends more than 1/5 of the way across a water body"). Even if the width of the channel was 252', the proposed pier would not adhere to this bylaw. Mr. Haines also states that the plan does not provide a location for floats and storage, which is required by the bylaw regulations. The plan for the pier calls for 4x6 pilings, which would make the dock not seasonal, so it would not meet BWR

1.16(e)17 “new pairs or replacement expansion or substantial repair of an existing pier should be for seasonal use only.” He states the Commission typically only allows 2x2 steel pilings. The Commission will need to consider the language whether this location is a “blind, dead end canal” or a “tidal creek within a salt marsh.” There is a blanket statement that reads that “no new piers can be allowed in those areas.” Mr. Haines believes that the details regarding the dredging are quite sparse. There is mention of a crane, but it is not specified whether the crane is going to be on the barge, or if it will be land-based. There is no discussion of how and where the sediment will be offloaded from the barge, how they will ensure the sediment will not impact public roadways, as it can take weeks for the sediment to dewater prior to being transported. He also questions which facilities are going to be used to dispose of the dredge materials, and if there is an agreement in place for the facilities to take the dredge materials. There is also concern of the control of the sediment. Mr. Haines does not believe a sediment curtain is going to be sufficient as there will be a lot of sediment with this project. DMF has submitted a letter discussing time of year restrictions, they would like a 1.5:1 rise/run for the dock and pier. Mr. Haines then discusses the shellfish and eelgrass survey, which was also not completely clear. He has questions regarding whether the survey was done for the entire project, including the dredging, or if it was just including the plan for the dock and pier. It was clear that the shellfish survey was just provided for the location of the dock and pier, and there was no mitigation discussed as there is a wild oyster population in the proposed area. Mr. Haines proposes to let the applicant address the bylaw restrictions, and again recommends a peer review. Mr. Dibb provides clarification regarding the measurement of the pier from mean high water. He requests clarification of the language of the bylaw which states “when a salt marsh is below mean high water, the dock, is that structure seaward of the salt marsh.” He will address the angle of the dock and the width of the waterway. Mr. Dibb states that he read the previously mentioned language as “since the salt marsh is below mean high water, the walkway goes to the saltmarsh line, and then from the salt marsh line out is the length of the dock in order to get to that 1/5 measurement.” Mr. Haines provides clarification that the length of the dock would be 1/5 the distance of the waterway. He does provide clarification on what is actually stated in the bylaw regarding salt marsh walkways, but not specific to docks that extend beyond the salt marsh. The salt marsh is not exempt from the waterway. Ms. Leduc requests clarification of the eelgrass and shellfish surveys. Mr. Dibb confirms that he does not believe the surveys went out the end of the dredge, but only included the pier. He will provide clarification of that information. Ms. Leduc states that she would not believe that the dredge portion of the project would be able to be supported

had the eelgrass and shellfish surveys not extended to include the footprint of the proposed dredge plan.

*Member comment:* Mr. Berman agrees with previous comment regarding the measurement of the waterway. He also agrees with surveying the entire proposed dredging area. Ms. Leduc suggests extending the survey just past the proposed dredging footprint, as the impacts of dredging can extend outward of the area planning to be dredged. Mr. Szwed a question regarding the language of the definition of the waterway. Mr. Haines clarifies that the regulations state that new docks or piers are not allowed in areas that are blind or dead end canals, or in tidal creeks and salt marshes. It would need to be determined whether this area would be defined as either of these types of waterways. No additional member comment.

Matt Costa (additional representative from Cape and Islands Engineering) would like to provide clarification regarding some of the member concerns. He first addressed the 4x6 posts, confirming that Beacon Marine does remove 4x6 posts seasonally, which has been done in Barnstable. The dredged material will be hauled by barge to the contactor's facility in New Bedford, and then brought to an upland disposal site for beneficial reuse. There will be a more comprehensive plan provided, but he confirmed there will be no transportation of materials over Bourne public roadways. Mr. Haines states that the Commission will need to decide whether that type of pier will be the least adverse type for that area.

*Public Comment:* Michael Intocci comments stating that he does not want to dredge, but that it is being requested to dredge in order to put in a dock. He believes it would be beneficial not only for himself, but others in the area. Mr. Haines provides clarification stating that a dock will not be permitted to be put in at all if the water depth is not already available. If the case is that the dredging is occurring in order to provide the water depth for the dock, it would not be allowed. Mr. Intocci informs the board that he is the last in the area to have a dock. Mr. Haines informs Mr. Intocci that most of those docks likely predate 1970 when the Wetlands Protection Act was put into place, but all of the docks predate when the regulations were instated in 2000. Mr. Intocci agrees, provides additional information, stating he is willing to work with the Commission. No additional public comment.

**Continuance requested to October 21, 2021 pending site visit. Continuance granted.**

## **Request to Amend Order of Conditions:**

1. Applicant: Scallop Bay Marina  
Address: 18 Wings Neck Road, Pocasset  
Representative: Falmouth Engineering, Inc.  
File Number: SE7-2134

To install a clear water tank directly adjacent to the existing building as shown on the plans. The tank was required by the plumbing inspector and is used as a settlement tank as part of the aquaculture process proposed at the facility.

Dan Ward (owner of Scallop Bay Marina) addresses the board. Mr. Haines shares his screen with the proposed plans. He states there was a previous permit granted for the aquaculture project at this site, which allows inflow and outflow of clean water through the aquaculture center. The amendment being presented today is to install a 150 gallon, two compartment processing tank within the existing boathouse/shop area. The tank is going to be an oil/water separator. Mr. Haines states that the oil/water separator is required by the plumbing inspector whenever there is a garage-like structure, or garage doors. The proposed plan is being requested to comply with the plumbing codes. Mr. Haines states this is a best management practice to ensure an extra layer of water quality. The plan is being presented to the Commission because the location is very close to mean high water and the water front, and also requires dewatering. The only thing being amended on the plan would be a revised plan date on the existing order. Ms. Leduc requests clarification that this tank would be installed below ground. Mr. Haines confirms, comparing it to a septic system or storm water basin. Ms. Leduc confirms the dewatering process would be done during the installation. Mr. Haines confirms that is correct. Sheet-piling will also be placed during the installation process. Ms. Leduc requests confirmation whether Mr. Haines feels comfortable with the location of the tank, as well as the plan for the installation process. Mr. Haines confirms he is comfortable with the installation process, but does voice that this would not be his ideal location for the tank, but he does not see there being any alternate location for the installation. Mr. Ward comments regarding the plan. He reiterates that all of his other plans have been approved. He also elaborates more on the reasoning behind the tank installation; stating that there are floor drains in the building that are utilized to drain the tanks, stating also that the water is guaranteed cleaner going back into the river than it ever was coming out. Due to the fact that the floor drains at all in the facility, the Massachusetts plumbing code states that there must be an oil/water separator at the end. Mr. Ward states there will be bollards in front of the doors to ensure that

no vehicles will be able to get into the building. He states that due to the nature of the activity that goes on in the building, he ensures that there will never be hazardous materials brought into the building to maintain a “clean room” type of environment. Mr. Ward states the only alternative to this proposed plan is to apply for variances with the state. He states also that he would prefer not to have this installed, but because it is being required by the plumber, he feels there is no viable alternative.

*Member comment:* None

*Public comment:* None

**Mr. Ligor makes a motion, and Mr. Holmes seconds the motion to issue amended order with a revised plan date.** Roll call performed: Mr. Szwed yes, Mr. Berman yes, Mr. Holmes yes, Mr. Ligor yes, Ms. Leduc yes. **Motion carries 5-0-0.**

**Request for Extension:**

1. Applicant: Richard and Sophia Catrambone  
Address: 128 Wings Neck Road, Pocasset  
Representative: Bracken Engineering  
File Number: SE7-2034

To install a stone patio, retaining walls, and landscape improvements.

Mr. Haines initiates the discussion, stating it is a very straightforward request. The applicant is requesting a three year extension as the proposed work has just begun. Mr. Haines does not believe there is any reason to deny the extension based on the language of the Wetlands Protection Act.

**Mr. Holmes makes a motion, and Mr. Ligor seconds the motion to extend the request.** Roll call performed: Mr. Szwed yes, Mr. Berman yes, Mr. Holmes yes, Mr. Ligor yes, Ms. Leduc yes. **Motion carries 5-0-0, extension granted.**

2. Applicant: Richard Selby  
Project Address: 134 Wings Neck Road, Pocasset  
Representative: N/A  
File Number: SE7-2027

Delineate wetlands and define mowing plan to prevent invasive species.

Mr. Haines initiates the discussion, stating that the original request was granted three (3) years ago to identify a mowing plan. The determination was made to grant the approval essentially as a test site, where the Commission decided half of the site location would be mown, and half would be left natural in order to attempt to control invasive species on the site via either hand pulling or treatment, or mechanically. Mr. Haines suggests to the board to not extend the order, due to the applicant appearing to have converted portions of the salt marsh into turf grass following a site visit, in violation of the order. There have been discussions administratively regarding this site previously, but it is continuing to be converted into turf grass, even fertilized and irrigated. He does not believe that anyone other than the applicant believes that the maintained turf area that has been delineated as marsh has higher value than the unmanaged area of the marsh. He informs the Commission that it would be up to their discretion whether they wish to proceed with enforcement. Mr. Haines also mentions that the Commission is not required to hear from the applicant, or representative as this is not considered a hearing. He then turns the discussion over to Madam Chair Leduc. Ms. Leduc does review the photos that were submitted by Mr. Haines, and she states that it is difficult to tell where the original delineation of the marsh was. Mr. Haines states he will forward photos that show that there were markers placed at the time of the original approval. Ms. Leduc also confirms recollection of the original request that there were two portions of the marsh that were going to be maintained; one via hand pulling, and one via mowing, but both only to be maintained as salt marsh in attempt to control invasive Phragmites. Mr. Haines states that there has been no report of whether or not there was any hand pulling of Phragmites actually performed, and also that it has been made pretty clear that there has been alteration to the salt marsh per the photo evidence. He confirms that there were originally markings in the field with PVC markers, but states that when he visited the site, he did not see any markers. Mr. Haines states that the PVC markers were "subsurface" and they needed to be dug out, and are now temporarily marked by curb stones.

*Member comment:* Mr. Berman states that he did not like this project, even when approved three years ago. He believes that enforcement is warranted, and mitigation does need to be done as well. Mr. Ligor states that a lot of time was spent at the site in the initial approval process, and believes that there may have been misunderstanding in what was expected with the approval of the request. Mr. Holmes states that he is disappointed with the outcome of the approval as

well, and also agrees with the idea of enforcement. Ms. Leduc does open the discussion to Mike Ball and Richard Selby.

Mr. Ball addresses the board, addressing the fact that he also had difficulty locating the markers as well. He confirms that the markers were much more visible when they were placed than they are now. He states he believes the applicant has a genuine concern of the Phragmites coming onto his property. Mr. Ball states that he and the applicant do appreciate the allowance of the maintenance of the property of the last three (3) years. He believes the grass looks the way it does due to the time of year. He does not believe there was any treatment was done to the unmanaged portion of the salt marsh, and does believe the mowing has assisted in maintaining the Phragmites. Mr. Haines comments that he does not believe how this property is being managed is appropriate. Ms. Leduc comments regarding that no treatment had been done on the "unmanaged" portion of the salt marsh. She clarifies that per the original approval, there was never meant to be an "unmanaged" portion of the salt marsh. There were two areas that were meant to be managed, but in differing manners (one via hand pulling and one via mowing), and to see if there was a difference in the types of maintenance. She also voices concerns regarding the markers, stating that someone must have either "banged them into the ground or someone put down some soil to semi bury them," also stating that it would not make sense for them to be placed completely into the ground at the time of installation, as they would no longer be considered markers. Mr. Haines comments that both the Buffer and the marsh are in worse condition than they were when the approval was granted. Ms. Leduc questions the area in the salt marsh that has been mowed, would it be possible to tell what species are in that location. Mr. Haines states that it looks like a standard turf grass mix. He also states that there is a portion of the site "down near the dunes" that looks like mowed salt marsh, but about 50% of the site looks like it has been converted, purposely, to turf grass. Ms. Leduc questions Mr. Ball whether the mowed species can be identified. Mr. Ball states that the mowing was low enough that he would not be able to identify the grasses, but he can identify Spartina, and Spike grass that has been mowed in that area. He does state that lower in elevation, there are more species of identifiable salt marsh grasses, but the higher in elevation of the area, which is still believed to be salt marsh, the grass does look more like traditional turf grass. Mr. Ball brings up a path that is 8-10' pathway through the marsh to the beach that the applicant would likely wish to maintain. Mr. Haines states that the areas of said path that are determined to be salt marsh cannot be maintained without an active Order of Conditions.

**Motion made by Mr. Ligor, and seconded by Mr. Berman to deny extension for Order of Conditions.** Mr. Szwed yes to deny, Mr. Ligor yes to deny, Mr. Holmes yes to deny, Mr. Berman yes to deny, and Ms. Leduc yes to deny.  
**Motion carries 5-0-0.** Extension for Order of Conditions denied.

Mr. Selby requests to speak, Ms. Leduc grants permission to speak. He begins in stating that he attempted to be compliant with the order. He continues, attempting to argue his point. Mr. Selby is reminded that the Commission has made their decision to not continue his Order of Conditions, and he is welcome to file a Notice of Intent to restore the project. But as of now, the Order of Conditions has been revoked. Mr. Haines states he will prepare an enforcement action and present it at the next hearing.

**Certificate of Compliance:**

1. Applicant: John C. Dawley  
Address: 276 Scraggy Neck, Pocasset  
Representative: Bracken Engineering  
File Number: SE7-2041

Revised proposed house footprint, revised proposed deck and stoops, revised driveway layout, installation of new landscape walls, revised grading of the previously approved proposed coastal bank, installation of timber landscape stairs, installation of a proposed patio and walkways, and revised layout of supplemental planting areas to show maintained access to existing walkway paths.

Mr. Haines comments, stating that the site is in general compliance. He also states that the original Order of Conditions required a fence to delineate the 25' Buffer Zone. The applicant did not want to have such a visual obstruction with a fence, so he has opted to increase the vegetative buffer, which would negate the requirement for a fence or other demarcation signage. Mr. Haines states also that it is a very clearly delineated boundary. Ms. Leduc feels that the increased vegetative buffer is sufficient, as long as it is maintained. Mr. Haines agrees.

**Motion made by Mr. Ligor, and seconded by Mr. Holmes to issue the Certificate of Compliance.** Roll call performed, Mr. Szwed yes, Mr. Berman yes, Mr. Ligor yes, Mr. Holmes yes, Ms. Leduc yes. **Motion carries 5-0-0, certificate issued.**

Mr. Dawley thanks the board.



**Discussion:**

Installation of mapping kiosks at Four Ponds and Town Forest. Mr. Haines provides clarification on how the mapping kiosks are different than what is presently out in these two locations. He states that it will be additional signage as well as re-mapping of the site to make it easier to use GIS and GPS mapping. Mr. Haines states that there is CPA funding available, and Richard Reinhart will be installing the mapping kiosks with the assistance of this funding, as he believes the signage should be professionally installed. Ms. Leduc states that the newer signage is nice. She also inquires whether there will be enough funding in place to not only initiate the project, but maintain it. Mr. Haines states that there may be an issue with funding in regards to maintaining the project, but he will find attempt to find future funding if necessary. Ms. Leduc states that there should not be too much funding necessary, just more so someone to keep an eye out. **Motion made by Mr. Ligor, and Mr. Holmes seconded the motion to approve the installation of the kiosks.** All members unanimously in favor. **Motion carries, 5-0-0.**

**Motion made by Mr. Ligor, and seconded by Mr. Holmes to excuse absent members.** All members unanimously in favor. **Motion carries.**

**Report of the Conservation Agent:**

Mr. Haines states that the only additional information that he has to provide is just in regards to enforcement for violations.

**Motion made by Mr. Szwed, and seconded by Mr. Holmes to adjourn the meeting.** All members unanimously in favor. Meeting adjourned at 9:24pm.

Minutes submitted by: Fallon Doyle