

**Conservation Commission  
Meeting Minutes**

Zoom Meeting Platform  
November 18, 2021

2022 JAN 10 AM 11:34

TOWN CLERK BOURNE

**I. Call to Order**

Chm. Gray called to order the meeting of the Conservation Commission at 7:00PM on Thursday November 18, 2021, held via Zoom Platform. 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. 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.

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:** Bob Gray, Paul Szwed, and Greg Berman, Elise Leduc-Fleming, Peter Holmes, Rob Palumbo

**Excused Members:** Tom Ligor, Steve Solbo

**Others in Attendance:** Andrea York, "Michele", James Sullivan, Linda Carpenter, Candace Fisher, "Susan's iPhone", William Grant, Laura Orleans, Kate McCarey, "Mgalligan", "Bill & Joan", "Christine's iPad", Diane Reed-Hunt, "Laura's iPad", "SB", "Cyndy", Bobo Bishop, Kevin Kelly, Matt Costa, Matthew Creighton, Susan Bodington, Michael Borselli, Andrew Magee, Rob Murkland, John York, Cyndy Torilli, "Janet", Sarah Fisher, "RAS", Joe McGurl, Mark Dibb, Steven Frank, George Seaver, Amalia Amado, Peter Lewitt, Michael Intocci.

**Continuances:**

Notice of Intent:

Champe A. Fisher

4 Fisher Lane, Sagamore Beach  
Continued to December 2, 2021

**Withdrawals:**

Notice of Intent:  
Andrew Laurence  
83 Elgin Road, Pocasset

**Request for Determination:**

1. Applicant: Janet McGregor and Timothy Traub, Trustees  
Address: 25 Phillips Road, Sagamore Beach  
Representative: Flaherty and Stefani  
File Number: CC21-23

Construct a new septic system to replace cesspools.

Mr. Mark Flaherty introduces himself and addresses the board. Site plan is shared via screen sharing. Mr. Flaherty addresses where the resource area is and the elevations of the property. He states that there is no possibility of runoff getting up the hill, then addresses the distances from the resource area. Along the revetment is in a velocity zone. He states that the plan is to replace the three cesspools on the property with one, five-bedroom septic system that is up to Board of Health standards that is within the 100' Buffer Zone.

*Member comment:* None.

*Public comment:* None.

Motion made by Mr. Palumbo and seconded by Mrs. Leduc-Fleming to approve under a Negative Two determination. **Motion carries 6-0-0.**

2. Applicant: Brian J. and Gail J. Kennedy  
Address: 70 Gilder Road, Gray Gables  
Representative: J.E. Landers Cauley, P.E.  
File Number: CC21-24

Construct a new addition to existing dwelling, approximately 573ft<sup>2</sup>, and two new decks approximately 260ft<sup>2</sup>. All disturbed areas to be loamed, seeded, graded, and landscaped. No changes existing septic system, no increase in bedrooms, and no increase in flowage.

Continued to December 2, 2021 due to representative not being available.

*Member comment:* None.

*Public comment:* Donna Porter expressed that she is concerned about the applicant's runoff going into her property. Mrs. Leduc-Fleming stated there are things in this application that would be addressed by the Conservation Commission. Chm. Gray states that the concerns at hand will be discussed at the next meeting when the representative is available. No additional public comment.

**Notice of Intent:**

1. Applicant: Oxford Development Group  
Address: 2 Kendall Rae Lane, Buzzards Bay  
Representative: Joe Longo/JL3 Consulting, Inc.  
File Number: SE7-2177

Construction of a mixed-use residential and retail development, including two five-story buildings with associated parking, landscaping, utilities, and storm-water infrastructure.

Chm. Gray defers this hearing to Mrs. Leduc-Fleming as he has done work with J.C. Engineering, and recuses himself.

Mr. Joe Longo addresses the board, and shares a site plan. He states there is a rendered plan, and is reminded by the board that the rendered plan would need to be submitted for the record. Mr. Longo states that the property is located within an AE flood zone, and confirms there are no wetlands on the property. Discussion is opened regarding how storm water will be handled. The applicant confirms the storm water removal requirement that is required by the town bylaw will be met. A peer review will be done on the design of the storm water removal plan.

*Member comment:* Mr. Berman comments that from a coastal resource standpoint, an independent reviewer may not be required as it is not overly complicated in that aspect. Mrs. Leduc-Fleming asks for confirmation whether the project is out of the 100' Buffer Zone from the canal. Mr. Longo confirms that the entire project is outside of the Buffer Zone. Mrs. Leduc-Fleming re-iterates the only resource area that the project is in is land subject to coastal storm flowage. She believes that where the buildings have been elevated, requirements for that resource area have been met. No additional member comment.

*Public comment:* Donna Porter asks what the septic daily rate is, and where it will be going. Mr. Longo responds stating that it will be going to either the new waste water treatment plant, or Wareham, but he is uncertain what the ratio of that split is. He also states he believes the septic daily rate will be around 46,000gal per day. No additional public comment.

Motion made by Mr. Holmes and seconded by Mr. Berman to close the hearing.  
**Motion carries 5-0-1.**

The Notice of Intent will be issued at the December 2, 2021 due to draft order of conditions not being available at this meeting.

2. Applicant: Thanos and Danielle Gossios  
Address: 295 County Road, Bourne  
Representative: Marsh Matters Environmental  
File Number: NOT AVAILABLE

In-ground pool installation.

Mr. Mike Ball addresses the board. He reviews the plan, and describes where the pool is proposed to go. He states that most of the project is outside of the 50' Buffer Zone, but there are a fence and retaining wall that are being proposed inside of the 50' Buffer Zone. The small retaining wall is being proposed to bring up a portion of the yard to level it out. Mr. Berman shares the plan. Mr. Ball states the dimensions of the pool and concrete pad. Chm. Gray requests clarification regarding the purpose of the retaining wall. Mr. Ball explains that there is a slope that the installation of the retaining wall would lessen.

*Member comment:* Chm. Gray inquires whether there may be consideration to relocating the pool further from the Buffer Zone. Mr. Ball states that is something he would need to discuss with the applicant, but also suggests a possible alternative, by leaving the pool where it is, and adding a vegetative buffer. Chm. Gray requests possibly finding out the intrusion in the Buffer Zone, and coming up with 1.5:1 mitigation of plantings to add to the Buffer Zone, as well as reviewing the location of the pool with the applicants. Mrs. Leduc-Fleming requests adding a pre- and post-project grading information to the plan, calculating what the planned volume of fill that would be needed to re-grade, and adding more detail regarding the retaining wall. She inquires what type of fencing would be used as well, keeping in mind the wildlife resource of the wetland, to possibly be able to let small mammals in and out of the

wetland. Mr. Szwed makes a possible recommendation of rotating the pool in order to move it away from the resource area. Mr. Berman asks about a noted "hardscape" area on the property. The area is confirmed, not hardscape, but a woodchip playground. No additional member comment.

*Public comment:* None.

Continued to December 2, 2021 with consent of representative and board.

3. Applicant: JMC Realty Trust  
Address: 534 Scraggy Neck Road, Cataumet  
Representative: Holmes and McGrath, Inc.  
File Number: SE7-2163

The repair and maintenance of two existing groins. Work will take place on or within land under ocean, land containing shellfish, rock intertidal shore, and coastal beach.

Mr. Nate Goshgarian addresses the board and shares his screen. He continues from the last hearing, and addressed the eelgrass survey that was done by Dr. Pamela Neubert. Dr. Neubert's final report was added to the application. Mr. Goshgarian states that the entire extent of the eelgrass that was found was located in two patches north of the groins, not found between the two groins. Mean low water was added to the plan as well.

*Member comment:* Mr. Berman asked whether that the barge work will remain within the two groins. Mr. Goshgarian confirms that will be the case.

*Public comment:* None.

Motion made by Mrs. Leduc-Fleming and seconded by Mr. Holmes to close the hearing. **Motion carries 6-0-0.**

The Notice of Intent will be issued at the December 2, 2021 due to draft order of conditions not being available at this meeting.

Chm. Gray turns the meeting over to Mrs. Leduc-Fleming as the next few applications are represented by Bracken Engineering, and recuses himself.

4. Applicant: Kenneth D. Legg and Ardelle F. Legg

Address: 122 Emmons Road, Monument Beach

Representative: Bracken Engineering

File Number: SE7-2174

*Closed at November 4, 2021 meeting, only pending receipt of a file number.*

The applicant proposes to install a new Title V compliant septic system to upgrade an existing non-conforming system. The proposed system is composed of a 2,000gal septic tank, distribution box, and a Presby I/A leaching system.

*Draft Order of Conditions pursuant to Chapter 131 § 40 include:*

*1, 2, 3, 5, 7, 8, 9, 10, 12, 13, 14, 18, 21, 27, 28, 29*

*Additional Special Conditions pertaining to Article 3.7 of the Bourne Wetlands Protection Bylaw:*

*5, 6, 7, 9*

Motion made by Mr. Holmes and seconded by Mr. Szwed to move the draft Order of Conditions to final. **Motion carries 5-0-1. Order of Conditions issued.**

5. Applicant: John and Patricia Gallagher

Address: 96 President's Road, Gray Gables

Representative: Bracken Engineering

File Number: SE7-2173

*Closed at November 4, 2021 hearing, only pending receipt of a file number.*

To construct a lateral addition to an existing single-family dwelling, install a new septic system with I/A septic tank and complying with Title V to the maximum extent feasible; and provide associated utilities, appurtenances, grading, and landscaping.

*Draft Order of Conditions pursuant to Chapter 131 § 40 include:*

*1, 2, 3, 5, 7, 8, 9, 10, 12, 13, 14, 16, 18, 21, 27, 28, 29*

*Additional Special Conditions pertaining to Article 3.7 of the Bourne Wetlands Protection Bylaw:*

*5, 6, 7, 9*

Motion moved by Mr. Holmes, and seconded by Mr. Berman to move the draft Order of Conditions to final. **Motion carries 5-0-1. Order of Conditions issued.**

6. Applicant: Sarah E. Fisher

Address: 8 Fisher Lane, Sagamore Beach  
Representative: Bracken Engineering  
File Number: SE7-2137

Construction of a four foot wide (final width) access path through a vegetated Buffer to a Coastal Bank, restoration and regrading of an existing path and area within the Buffer Zone. Supplemental mitigation plantings within the 50' Buffer Zone.  
Existing vista corridor to be maintained.

**Closed at November 4, 2021 hearing.**

*Draft Order of Conditions pursuant to Chapter 131 § 40 include:*  
1, 2, 3, 7, 8, 9, 10, 12, 14, 18, 21, 22, 25, 26, 27, 28

*Additional Special Conditions pertaining to Article 3.7 of the Bourne Wetlands Protection Bylaw:*  
4, 6, 7

Motion made by Mr. Holmes, and seconded by Mr. Berman to move the draft Order of Conditions to final. **Motion carries 5-0-1. Order of Conditions is issued.**

7. Applicant: Susan Bodington  
Address: 48 Chickadee Lane, Pocasset  
Representative: Falmouth Engineering  
File Number: SE7-2169

Proposed timber bulkhead and access stairs.

Mr. Michael Borselli addresses the board and shares his screen. Mr. Borselli addresses the concerns that were brought up at the previous hearings regarding this plan. He reiterates that the dwelling was constructed prior to 1978, and is the only bank in the immediate area that remains unarmored. The sediment at the bottom of the bank is not moving. He hopes to be able to utilize the opportunity of coinciding this proposed project with that of the proposed project next door (in a later application) in order to limit disturbance to the resource area.

*Member comment:* Mrs. Leduc-Fleming asked if the previously proposed grade changes were removed from the plan, as well as what species were planned to be used in the mitigation plan. Mr. Borselli states the grade changes were removed from the plan and will not be done, and the species that will be used will be types that are

approved by the Commission. Mr. Berman asked what will be done to mitigate surface runoff. Mr. Borselli states the mitigation planting that is being proposed will assist in surface runoff. Mrs. Leduc-Fleming asks if the construction will be conducted from the upland side or the water side. Mr. Borselli states the work is proposed to be done from the upland side, with possible offshore materials brought in by barge. No additional member comment. Mrs. Leduc-Fleming recommended adding a condition, if the plan moves forward, that any vegetation that is disturbed during construction would be restored. Mr. Borselli comments with plans to attempt to avoid the resource area as much as possible. No additional member comment.

*Public comment:* Ms. Susan Bodington thanks the Commission for their time and efforts in looking into reviewing this plan. She reiterates what Mr. Borselli previously mentioned that she is hopeful to be able to move forward with this project simultaneously with the abutting property. No additional public comment.

Motion made by Mr. Holmes, and seconded by Mrs. Leduc-Fleming to close the hearing. **Motion carries 6-0-0.**

*Draft Order of Conditions pursuant to Chapter 131 § 40 include:*

1, 2, 3, 7, 8, 9, 10, 12, 14, 18, 19, 20, 23\*, 25, 26, 27, 28, 29,

*\*Additional request for Condition 23 that the stairs would need to be 12"-18" above existing grade.*

*Additional Special Conditions pertaining to Article 3.7 of the Bourne Wetlands Protection Bylaw:*

4, 6, 7

Motion made by Mr. Holmes, and seconded by Mrs. Leduc-Fleming to move the draft Order of Conditions to final. **Motion carries 5-1-0. Order of Conditions is issued.**

8. Applicant: Steven Frank, Frank Family Realty Trust  
Address 52 Chickadee Lane, Pocasset  
Representative: Falmouth Engineering  
File Number: SE7-2168

Proposed timber bulkhead, pier reconstruction.

Mr. Michael Borselli addresses the board and shares his screen. He addresses the concerns that were brought up at the last hearing. He states the proposed plan to address surface runoff from the street is to put a leaching pit in the corner of the



driveway, and creating a low point at the driveway corner. Chm. Gray questions whether it would then be appropriate to remove the stone swale, Mr. Borselli believes it would be appropriate.

*Member comment:* Mrs. Leduc-Fleming requests clarification regarding the proposed vegetation species. Mr. Borselli states it would be the same as the previous plan: the species will be selected at approval of the Commission. Mr. Palumbo questions whether the roof runoff will be directed to the top of the driveway as well. Mr. Borselli states it was not proposed to have that done, but there is one area of the roof that would be able to be connected to the leaching pit. That information will be indicated on the plan. Mr. Berman agrees with removing the rock swale, as well as connecting the roof runoff to the leaching pit. No additional member comment.

*Public comment:* Mr. Steven Frank thanks the Commission for their time and consideration regarding the project.

Motion made by Mr. Holmes, and seconded by Mrs. Leduc-Fleming to close the hearing. **Motion carries 6-0-0.**

*Draft Order of Conditions pursuant to Chapter 131 § 40 include:*

1, 2, 3, 7, 8, 9, 10, 12, 14, 15, 18, 19, 22, 25, 26, 27, 28, 29

*Additional Special Conditions pertaining to Article 3.7 of the Bourne Wetlands Protection Bylaw:*

4, 6, 7

*Additional special conditions:*

- *Removal of stone swale*
- *All work must be accomplished by the upland side of the top of the existing bulkhead.*

Motion made by Mr. Homes, and seconded by Mrs. Leduc-Fleming to move the draft Order of Conditions to final. **Motion carries 6-0-0. Order of Conditions is issued.**

9. Applicant: Frances McSherry and Carl Nelson, Pamela B. Nelson Trustees  
Address: 249 Scraggy Neck Road, Cataumet  
Representative: BlueFlax Design, LLC  
File Number: SE7-2175

To remove invasive vegetation, restore native vegetation, manage vistas within a V Flood Zone, and within 100' of a wetland resource area.

**Presented in conjunction with the following project:**

10. Applicant: Frances McSherry and Carl Nelson, Pamela B. Nelson Trustees  
Address: 251 Scraggy Neck Road, Cataumet  
Representative: BlueFlax Design, LLC  
File Number: SE7-2176

Mr. Andrew Magee addresses the board and shares his screen. He states that the Conservation Agent requested a plan for how tree height would be managed at the last hearing. This is now noted on the plan. The site plan describes in detail the proposed plan for how each of the four designated areas will be maintained, including vegetation species, view corridor dimensions, and maintenance height of trees. The additional cause of delay for moving forward was lack of a file number, which has now been obtained by D.E.P.

*Member comment:* Mr. Berman questions the overall tree height at the edge of the salt marsh. Mr. Magee discusses the tree height, and the change along the slope of the salt marsh, and the plan for how they are to be maintained. Mr. Berman then requests clarification of a specific area on the plan, and how it will be managed. Mr. Magee states that the area in question is currently a meadow and is planned to be managed as such, as it has been historically managed. Photos of the site reviewed, and the additional question addressed. All questions now answered. No additional member comment.

*Public comment:* None

Motion made by Mrs. Leduc-Fleming, and seconded by Mr. Holmes to close the hearing **for both 249 Scraggy Neck Road, Cataumet, and 251 Scraggy Neck Road, Cataumet. Motion carries 6-0-0 for both 249 Scraggy Neck Road, Cataumet, and 251 Scraggy Neck Road, Cataumet as well.**

*Draft Order of Conditions pursuant to Chapter 131 § 40 for 249 Scraggy Neck Road, Cataumet:*

1, 2, 3, 7, 8, 9, 10, 12, 18, 22, 25, 26, 27, 28

*Additional Special Conditions for 249 Scraggy Neck Road, Cataumet pertaining to Article 3.7 of the Bourne Wetlands Protection Bylaw:*

4, 6, 7

Additional special conditions:

- All work will be done in compliance with the land management plan, will be reference specifically by title and date.

Motion made by Mrs. Leduc-Fleming, and seconded by Mr. Holmes to move the draft Order of Conditions to final. **Motion carries 6-0-0. Order of Conditions issued.**

*Draft Order of Conditions pursuant to Chapter 131 § 40 for 251 Scraggy Neck Road, Cataumet*

1, 2, 3, 7, 8, 9, 10, 12, 18, 22, 25, 26, 27, 28

*Additional Special Conditions for 251 Scraggy Neck Road, Cataumet pertaining to Article 3.7 of the Bourne Wetlands Protection Bylaw:*

4, 6, 7

Additional special conditions:

- All work will be done in compliance with the land management plan, will be reference specifically by title and date.

Motion made by Mrs. Leduc-Fleming and seconded by Mr. Holmes to move the draft Order of Conditions to final. Motion carries 6-0-0. Order of Conditions is issued.

11. Applicant: Cape Club Building, Inc.

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.

Mr. Mark Dibb addresses the board and shares his screen. Mr. Dibb invites Mr. Michal Intoccia to address the board as well. Mr. Intoccia thanks the board for the work they have done with this project. Mr. Dibb then returns to the plan, stating that a peer review was received last Friday (November 12, 2021), and shares revisions

that were made to the original plans. There were four main revisions made to the plan:

- The house was moved closer to the road, and further from the resource area.
- The riverfront area mitigation was recalculated, and increased to the required 2:1 mitigation requirement
- Cross sections of the bank were added to the plan showing the existing and proposed bank slopes
- The minimal impacts to the bank were identified and a detailed plan was provided

Mr. Dibb then goes into greater detail regarding all of the above proposed revisions, and shows the detail on the plan. Nitrogen calculations were then discussed. Mr. Dibb states that with the original plan, the nitrogen calculation did come out to 5.5ppm. With the revisions to the plan, the nitrogen calculation now comes out to the required 5.0ppm.

Chm. Gray requests clarification regarding the movement of the building. Mr. Dibb provides clarification, stating that there are numbers included on the plan for proposed grading. Those numbers were relocated on the plan, along with the proposed relocation of the building. Mr. Gray then questions if the number of trees that are proposed to be removed may be added to the plan. Mr. Dibb confirms that can be added to the plan.

*Additional member comment:* Mrs. Leduc-Fleming requests clarification whether a peer review comment regarding a coastal bank was addressed on the other side of the property. Mr. Dibb states that has been addressed in the written plan. Mrs. Leduc-Fleming then addresses a request made by the Commission to review whether there may be a coastal beach on the property. She states that the issue with this proposed plan is that it does not define the seaward edge of the salt marsh. As currently shown, the plan implies that the salt marsh continues seaward of the coastal beach, which is incorrect. Chm. Gray states that this may be the case, but it likely did not happen naturally. Mr. Dibb states that the area can be resurveyed to confirm. Mrs. Leduc-Fleming also suggests that once the existing building is removed, additional view corridor clearing may not be necessary. She provides alternatives for view corridor clearing. Mr. Szwed questions the changes that are proposed on marginal analysis. Mr. Dibb provides clarification. Mr. Berman is interested in the peer review comments and recommendations. Chm. Gray requests that the peer reviewer present his review. Mr. Matt Creighton addresses the board and shares his review. He states that he has not had an opportunity to review the updated plan and compare it to his initial review to ensure that the points he suggested were addressed. Mr. Creighton

does address some points, specifically the removal of the existing building, and the proposed swimming pool. He reviews additional information that he discovered in his site visit. Mr. Creighton requested additional time to review the materials submitted. Chm. Gray agrees, also to give the Commission additional time to review the plans, as they were submitted not long before the hearing today. Chm. Gray additionally stated that through a downsize of the proposed pool and patio, all of the proposed disturbance in the 100' Buffer Zone, could be eliminated. He also states concern regarding the amount of infrastructure in the coastal bank itself. Chm. Gray states that the Wetlands Bylaw should be reviewed in regards to dwellings, driveway, and roadway as well. Mr. Palumbo believes that something needs to be removed from the plan from either the street side, or the water side. No additional member or peer reviewer comment.

*Public comment:* Mr. Joe McGurl stated that the regulations should be followed closely due to the large footprint of this project, and the significant increase in impervious surfaces being proposed so close to a delicate water resource area. How high is the pool retaining wall? And there was also a question regarding relocating or resizing the structures in the plan. Mrs. Leduc-Fleming confirms the regulations will be followed as closely as possible, and the topic of relocating or resizing the structures and otherwise has previously been discussed. She defers the question of the height of the retaining wall to Mr. Dibb. Mr. Dibb states that there is no retaining wall proposed for the pool, just grading at a 3:1 slope, which is similar to the existing bank. Mr. John York commented regarding previous use of the property. He is hopeful that the Commission would require, in writing, the record of previous use of the property. He expresses concern in regard to the amount of time that the property was being used, specifically in regards to the septic use, versus what the proposed amount of septic use would be for the current plan. Mr. Dibb comments that this comment can be addressed. Mr. Bill Fallon thanks the board for their time and efforts. He then states that he agrees that the previous use is no comparison to the proposed plan. Mr. Bob Shelburne, a legal representative for the applicant. He states that there has been a time constraint on this project, as well as financial restraints. He questions whether it would be possible to continue the hearing to the next hearing, on December 2, 2021. Chm. Gray confirms this information, and requests consent from Mr. Shelburne to continue the hearing to December 2, 2021. "Bill and Joan" responded to Mr. Shelburne's comments, stating essentially that the applicant's timeline should not dictate the Commission's decision regarding the plan. No additional public comment.

Continued to December 2, 2021 with consent of the applicant's representative.

12. Applicant: Cape Club Building, Inc.

Address: 96 Megansett Road, Cataumet

Representative: Cape and Islands Engineering, Inc.

File Number: SE7-2172

Construction, licensing, and maintenance of an access ramp leading 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.

Mr. Dibb addresses the board and shares his screen and addresses the changes made to the plan:

- Float stops have been added to the float.
- Dimensions for the mooring that are on the plan were added.
- The width of the channel is noted from mean high water to mean high water.
- A formal waiver was submitted for the depth of the water in the area, requesting to proceed with the project even though there is less than three feet of mean low water depth in the area.
- Another former waiver was submitted regarding the approach path being 37' as opposed to the required 50'.

Mr. Creighton summarizes his peer review report. He clarifies the way to obtain measurement across a waterway. He also believes that the waiver request should really only be granted if there is a true hardship involved, not just because it is requested. He then comments regarding the shellfish population and survey. He leaves the final decision regarding all of the above to the Commission.

*Member comment:* Mr. Palumbo comments, stating that it may be beneficial for the peer reviewer and the representative to get together and discuss the project together. Mr. Berman mentions that the plan is lacking in detail at this time. No additional member comment.

*Public comment:* Mr. John York has a question regarding lighting, if the Conservation Commission were to permit a dock, would they be responsible for regulation of lighting on the dock. Chm. Gray states that a Harbor Master permit would be required for the dock, and the Town of Bourne, via the building inspector, would have the ability to regulate the lighting. Mr. York questions further regarding the light intensity. Chm. Gray does discover and provided information from the bylaw regarding light intensity found in the Wetland

Protection Bylaw. Chm. Gray states that a review report is pending from the Department of Natural Resources regarding navigation issues and shellfish issues.

Continued to December 2, 2021 with consent of the applicant's representative.

**Certificate of Compliance:**

1. Applicant: Dennis Kelly  
Address: 15 Mashnee Road, Bourne  
Representative: Dennis Kelly

This project involved razing the existing dwelling, and the construction of a new dwelling and associated utilities within Land Subject to Coastal Storm Flowage – AE.

Chm. Gray states that he did a site visit to inspect the property and recommends that the board grant the Certificate of Compliance.

Motion made by Mr. Palumbo, and seconded by Mrs. Leduc-Fleming to grant the Certificate of Compliance. **Motion carries 6-0-0.**

**Vote on previous meeting minutes:**

- October 21, 2021 meeting minutes: Motion made by Mr. Berman, and seconded by Mr. Holmes to approve the minutes with requested edits. **Motion carries 5-0-1.**
- November 4, 2021 meeting minutes: Motion made by Mr. Berman, and seconded by Mrs. Leduc-Fleming. **Motion carries 4-0-2.**

**Vote to excuse absent members:**

- Motion made by Mr. Palumbo, and seconded by Mr. Holmes to excuse absent members. **Motion carries 6-0-0.**

**Report of the Conservation Commission:**

- Requests are still coming in for tree removal from the October 27, 2021 storm. Requests are being handled as best as they can, considering the volume that is being received.

**Adjournment:**

- Motion made by Mrs. Leduc-Fleming, and seconded by Mr. Szwed. **Motion carries 6-0-0.**

Meeting adjourned at 11:20PM.

Minutes submitted by: Fallon Doyle