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Town of Bourne
Conservation Commission
Meeting Minutes
Zoom Meeting Platform
March 17, 2022

2022 MAY -2 AM 11:31

TOWN CLERK BOURNE

I. Call to Order

Chm. Gray called to order the meeting of the Conservation Commission at 7:00PM on Thursday March 17, 2022, 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.

Chm. Gray 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. If the matter is more complex, more time will be allotted.

Members present: Bob Gray, Greg Berman, Peter Holmes, Thomas Ligor, Rob Palumbo, Paul Szwed, and Associate Member Steve Solbo

Excused members: Elise Leduc-Fleming

Others present: Stephanie Fitch, Zac Basinski, Jamie Bissonnette, "Bryan'siphone11", Mark Burgess, Virginia Clark, John Chuckran, Greg Drake, "owner", Nate Goshgarian, Brian Hebb, "Keith's iPad", Timothy Lydon, Beth Timson, Mary Warren

Request for Determination:

1. Applicant: Christopher and Beth Ann Timson
Address: 126 Tahanto Road, Pocasset
Representative: Outback Engineering, Inc.
File Number: CC22-02

Title V septic upgrade and add additional living space to existing house. This project is within 100 feet of a Wetland Resource Area, and within an AE Flood Zone.

Mr. Greg Drake addressed the board and shared his screen. He reviewed the details of the proposed plan. He noted that the septic system is partially within an AE Flood Zone. Mr. Drake also reviewed that a variance of 120 feet has been requested for the septic system location from the Board of Health 150' setback regulation, as there is not enough space on the property to allow for the required 150 foot setback from the Wetland Resource Area. The two additions, a sun room on one side of the house, and an entry way on the opposite side of the house, are proposed to be within the 100 foot Buffer Zone. Both additions are proposed to be the same distance from the Wetland Resource Area as the existing house. He also noted another proposed addition to the home, but that would be completely outside of both the AE Flood Zone, and 100 foot Buffer Zone. He opened the discussion to questions.

Ms. Stephanie Fitch commended the removal of a cesspool with this septic system upgrade. She was pleased with the location of the addition, as it is proposed to be 70 feet back from the top of the coastal bank. She also discussed adding sedimentation controls to the plan.

Member comment: Mr. Ligor recommended use of a silt fence as protection for the Resource Area from construction material. Mr. Drake stated there is a silt sock proposed in the plan for this purpose. No additional member comment.

Public comment: None.

Motion made by Mr. Holmes and seconded by Mr. Ligor to approve the project under a Negative Two Determination. **Motion carried 6-0-0. Project approved under a Negative Two Determination.**

Chm. Gray recused himself from the next hearing. Mr. Palumbo stepped in to lead the meeting.

2. Applicant: Vicki Lang
Address: Harding Lane, Bourne
Representative: Zenith Consulting Engineers, LLC
File Number: CC22-03
Complete construction of the Harding Lane Roadway. Work is within 200 feet of Herring River.

Mr. Jamie Bissonnette addressed the board and shared his screen. He reviewed the previous approval of this project from both the Planning Board and the Conservation Commission in 2001, and that this RDA is being requested to do

some completion work on the previously approved plan. Mr. Bissonnette discussed the details of the plan, with the dimensions of the proposed paved part of the road, as well as dimensions of the proposed gravel part of the road, with cross-country drainage included in the gravel part of the road.

Ms. Fitch stated that she spoke with Ms. Jennifer Copeland from the Planning Board, who stated the applicant was "all set." Ms. Fitch also discussed that the new Storm Water Regulations would come into plan only if each individual house disturbed greater than an acre of land. Due to this, there is nothing that the Commission needs to be concerned about, regarding completion of the road.

Member comment: Mr. Szwed questioned what the plan is for storm water management. Mr. Bissonnette reviewed that there are a couple of catch basins with leeching trenches proposed for the plan. Mr. Holmes asked if the roadway will effect Herring River. Mr. Bissonnette does not believe it will as the area is already mostly developed. Ms. Fitch suggested to Mr. Bissonnette that he review the topography of the area, to note that there is a bank along the river. Mr. Bissonnette reviewed the topography map, and noted that there is a ridge that runs between the river and the site. No additional member comment.

Public comment: Mr. Bryan Besse commented on ensuring the integrity of the bridge that spans Herring River prior to having construction vehicles travelling across it. Ms. Vicki Lang responded stating that a structural engineer inspected the bridge in 2020, and ensured that the bridge is secure. Ms. Lang stated that she will also have the structural engineer come out again once the building permit is obtained. Mr. Besse also reviewed an easement agreement that was approved in 2002. Mr. Palumbo commented that this matter would be better discussed with a different department. Ms. Fitch agreed, providing Mr. Besse with the appropriate resources with which to discuss this matter. Mr. Besse appreciated the information.

Motion made by Mr. Ligor and seconded by Mr. Szwed to approve the project under a Negative Two Determination. **Motion carried 5-0-1. Project approved under a Negative Two Determination.**

Chm. Gray rejoined the meeting.

3. Applicant: Patrick Duncan
Address: 9 Wallace Point, Buzzards Bay
Representative: Atlantic Concrete Construction
File Number: CC22-04

Rebuild existing sea wall. This project is within an AE Flood Zone, and within 100 feet of a Wetland Resource Area.

Mr. John Chuckran addressed the board. He reviewed the plan of a battered stone

wall with filter fabric behind it. He also reviewed the plan to remove the stone that was placed due to the wall failing. There is proposed to be a turbidity fence placed ten feet beyond the low tide level that will wrap around to the property, as well as a silt fence, with all proposed work being done from the top with an excavator. There also will be stone placed on a 1:1 slope with a concrete cap on the top.

Ms. Fitch reviewed that there was a Violation Notice issued for this property in August 2021 resulting from a site visit to obtain a Certificate of Compliance for an Order of Conditions approved in 2019 for a septic upgrade. There was “unpermitted fill or rocks on the coastal beach” as well as “new coastal stairs” found by the previous agent at the time of the site visit. It had been discovered that the unpermitted stairs were not installed by the property owners, but by the association. Ms. Fitch shared the proposed plans for the project.

Member comment: Mr. Holmes questioned the location of the stone that was placed illegally. He commented on the footing that is proposed to be installed once the stone is removed, and requested clarification whether it was proposed to be in the same location that the stone currently is. Mr. Chuckran responded, stating that the whole wall is proposed to be moved back two feet. Mr. Berman commented that there is a lot going on with the plan. He noted specifically that there are no Resource Areas noted on the site plan, and the slope is not meeting best management practices (BMPs) from the state, and believed this plan would be better addressed with a Notice of Intent, at least. He commends the wall moving back, but does not believe there is enough information provided for the Request for Determination. Mr. Chuckran stated that the original plan for the proposed septic upgrade did denote the Resource Areas, and this plan is shared and reviewed by the board. Existing conditions are also reviewed. Additional details of the proposed are reviewed. Mr. Berman questioned if the existing sea wall has a Chapter 91 License. Mr. Chuckran does not believe it has a Chapter 91 License.

Public comment: None.

Motion made by Mr. Holmes and seconded by Mr. Ligor to move this project with a Positive One Determination to require the submission of a Notice of Intent. **Motion carried 6-0-0. Positive One Determination approved, Notice of Intent required for this project.**

Notice of Intent:

1. Applicant: Town of Bourne
Address: 0 Shore Road, Pocasset
Representative: Zachary L. Basinski, PE, CFM
File Number: SE7-2197

Proposed improvements to the onsite drainage and parking within the Hog House Point parking area, and the Monks Part parking area. This project is within an AE Flood Zone, V Flood Zone, and within 100 feet of a Wetland Resource Area.

Chm. Gray recused himself from this hearing. Mr. Palumbo stepped in to lead the meeting.

Mr. Zachary Basinski addressed the board and introduced Mr. Timothy Lydon. Mr. Lydon recused himself from any role he has with the Conservation Commission for this presentation, as he works closely with Conservation. He reviewed the plan. He noted that the USDA has provided a grant to assist with shellfish by way of storm water improvement. There are proposed to be storm water interceptors in the up-gradient location of the parking area, as well as a trench drain prior to going into the state layout and railroad area. The surface is proposed to remain gravel under the bridge, with pavement proposed in the larger parking area on the site. Mr. Lydon reviewed that it was not easy to arrive at this conclusion to use pavement, but ultimately will be the best decision for the area. He turned the presentation over to Mr. Basinski for further explanation. He reviewed the plan as well as the Resource Areas:

- VE Flood Zone
- Coastal Beach
- Coastal Barrier Resource Area
- Natural Heritage

He reviewed that there is still comment pending from Natural Heritage, so the hearing would need to be continued. Vehicle access is proposed to be maintained, as well as use of the existing boat ramp. He reviewed the existing conditions; gravel parking area that directs water into an existing stone swale, and then into Little Bay which contains shellfish. He then reviewed proposed conditions for the lower parking lot, which would have a paved area leading to a swale. The long term maintenance of the existing gravel parking lot including grading would lead to long term maintenance issues with the proposed green storm water infrastructure, which is why pavement for the parking area is being proposed. An alternative was reviewed to install catch basins, but due to the ground water elevations, that plan was not going to work, hydraulically. For the upper parking lot: mechanical treatment systems are being proposed, based on 400ft³ per contributing impervious area. Mr. Basinski reviewed existing conditions of this area as well: the water runoff is coming down Valley Bars Road, coming out under the train bridge, and discharging into the abutting salt marsh. Alternative plans that were considered were discussed, and reasoning behind not proceeding with those plans were reviewed. Mr. Basinski opened the discussion to questions.

Member comment: Mr. Berman commended the infiltration drainage surface water control portion of the plan. He questioned the paving of the lower parking area, as well as if the removal of the swale would remove some parking spots. Mr. Lydon responded stating that there is currently no true order or organization to the parking in that area. With paving the area, they will be able to control the

traffic with pavement markings. Mr. Berman also questioned whether Federal money would be allowed to be used to develop in this area, being that it is a Coastal Barrier Resource System. Mr. Lydon stated that this was not brought up by neither the Natural Resources Conservation Service (NRCS) Engineer nor the NRCS Scientist. Mr. Basinski responded also by stating the area is not being developed as a new structure, there are just adjustments being made to improve the storm water. He also stated that the way the water is running over the gravel surface and with there not being much infiltration, the pavement would act almost in the same way. Mr. Berman questioned if there have been alternative impervious surface options considered. Mr. Lydon responded, stating that the proposed option is the lowest cost option available for operation and maintenance for the Bourne DPW. The DPW does not have the resources available to maintain an alternative surface material, such as pavers. Mr. Basinski also responded stating that frost heaving was taken into consideration with the option for pavers, as well as sand blowing around in the area. He also reviewed the concern that the parking lot may creep toward the Resource Area if gravel were used. This would not happen with pavement.

Ms. Fitch discussed that she was able to do a site visit, and noted that the previous Conservation Agent had been working on this project, and she believes it is a great redevelopment project.

Additional member comment: Mr. Holmes stated he is not thrilled with the idea of the use of pavement.

Ms. Fitch also commented that the pavement will direct water runoff toward the treatment systems, and that would not be able to be achieved with gravel.

Additional member comment: Mr. Ligor commended the project. Mr. Solbo questioned if the current surface material is a stone dust/gravel mix, and how long it has been in place at the site. Mr. Basinski responded that this is correct, and that it has been in place for "a long time." Mr. Solbo appreciated the response, and commented that it is essentially an impervious surface at it sits. He also commented that it is unfortunate to have to pave this close to a Resource Area, but expressed understanding in regards to cost and maintenance. No other additional member comment. Mr. Palumbo appreciated the idea of directing the water in the direction that they desire.

Public comment: None.

Continued to April 7, 2022 with consent of the representative and the board, pending comments from Natural Heritage.

2. Applicant: Town of Bourne
Representative: Timothy Lydon
Address: 789 Shore Road, Pocasset

File Number: SE7-2196

Coastal access stairway installation on a coastal bank. This project is within 50 feet to a salt marsh, within an AE Flood Zone, and within 200 feet of a riverfront, and within the ACEC.

Mr. Lydon addressed the board and shared his screen. He reviewed that the dredge spoils from Little Bay and Monument Beach were stored in this location. Upon removal of this material, it was discussed what could be done to improve the area. Photos of the area were reviewed, and area that was starting to degrade from kayak access was discussed as well. The stairs are being proposed in order to sure up erosion, be used for kayak access, and prevent further degradation of the coastal bank. Details of the proposed stairs were reviewed, including the wood material proposed to be used. Mr. Lydon also discussed comments made by DEP to design the stairs without the risers, and elevate the stairs two feet above the coastal bank.

Ms. Fitch questioned the proposed elevation for the stairs. Mr. Lydon stated it will be about 12 feet above mean sea level. Ms. Fitch also asked if the current design would meet the two foot elevated walkway request by DEP. Mr. Lydon stated it may not meet that request at the platforms, but this could be discussed with the engineer to adjust the design and present the amended design at a subsequent meeting. Ms. Fitch shared photos from a site visit showing existing conditions with the degradation of the bank from kayak access. Ms. Fitch also stated this plan should work to stabilize the bank, as well as direct traffic. Report from Natural Heritage is pending for this project.

Member comment: Mr. Szwed commented to ensure that the current problem does not just migrate to another location to cause similar issues close by. Ms. Fitch responded stating that dependent on funding, a second part of the plan would be to replant the vegetation under the stairs at a later time. Mr. Berman questioned if one of the existing parking areas is proposed to be removed. Mr. Lydon confirmed that is not the case, the plan that was shown was just the most recent available plan to review the proposed stairs, and that plan did not include both existing parking areas. Mr. Berman also noted there might be some surface water issues in the area, and suggested going wide enough to capture drainage. No additional member comment.

Public comment: None.

Continued to April 21, 2022 with consent of the representative and the board.

3. Applicant: Max and Olga Rivkin
Address: 380 Wings Neck Road, Pocasset
Representative: Holmes and McGrath, Inc,
File Number: SE7-2195

Proposed project includes the demolition of the existing house, and the construction and maintenance of a single-family house with attached garage, in-ground pool with retaining walls, stone terraces, fire pit, dry wells, grading, and landscaping. Work will take place within 100 feet of a coastal bank.

Mr. Nate Goshgarian addressed the board and shared his screen. He reviewed the existing conditions of the property: 348,000ft² of land, with a single-family dwelling, cottage, associated landscaping, and a steep bank. Wetland Resources in the area:

- Land under the ocean
- Land containing shellfish
- Coastal beach
- Coastal dune
- Coastal bank
- Land subject to Coastal Storm flowage

Mr. Goshgarian then reviewed the proposed plan. He noted the most restrictive setback, derived from the top of the coastal bank, which is 50 feet, and addressed the limit of work noted on the plan. He also noted the limit of work will be denoted by staked silt fence and straw waddles that will be implanted prior to the start of construction. Mr. Goshgarian also reviewed the grades used to delineate the top of the coastal bank.

Ms. Fitch noted that most of the proposed project is happening outside of the jurisdiction of the Conservation Commission. The proposed pool and terrace, and anything seaward of those structures, are the only parts of the plan that are being reviewed within the Conservation's jurisdiction. She commented regarding vegetation pruning that seems to be occurring on the landward side of the coastal dune, and suggested the possibility of including an additional special condition regarding pruning. Photos of existing conditions were shared and discussed.

Member comment: Mr. Berman commented regarding difficulty in delineating the top of the coastal bank, but is not concerned with the delineations, or with the location of the structures in relation to the coastal bank, as the pool is outside of the 50 foot Buffer Zone. Mr. Ligor questioned if the in-ground pool is proposed to have a hardscaped patio surrounding it. Mr. Goshgarian responded, stating that a hardscaped patio is not proposed, there will be a stone terrace adjacent on either side of the pool, about 15 feet outside of the 50 foot Buffer Zone. Mr. Palumbo questioned where the existing house is location in reference to where the new

house is proposed to be constructed. Mr. Goshgarian stated it is proposed to be in about the same location. No additional member comment.

Public comment: None.

Motion made by Mr. Palumbo and seconded by Mr. Holmes to close the hearing.
Motion carried 6-0-0. Hearing is closed.

Draft Order of Conditions:

All General Conditions as well as Special Conditions pursuant to Chapter 131 § 40 include:

1, 2, 3, 7, 10, 11, 12, 14, 17, 18, 19

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

4, 5, 6, 7

Motion made by Mr. Ligor and seconded by Mr. Holmes to move the draft Order of Conditions to final. **Motion carried 6-0-0. Order of Conditions is issued.**

4. Applicant: Brian Hebb
Address: 117 Phillips Road, Sagamore Beach
Representative: Shorefront Consulting
File Number: SE7-2192
Continued from March 3, 2022.

Proposed reconstruction of a single-family dwelling. This project is within a barrier beach, and within a V Flood Zone.

Mr. Mark Burgess addressed the board and reviewed the revisions made to the plan:

- The dwelling was move landward so that no part of the structure is further seaward than existing structures
- The Title Block on the plan was corrected to say "Bourne"
- A label was added to denote the crest of the point stating "approximate crest of the dune"
- A dimension was added in the 25 foot setback in the proposed plan to note that the limit of work on the east side of the plan will be 231.5ft to the approximate crest of the dune
- A note was added to indicate "the existing elevated walkway will be elevated two feet above the grade, with ½ inch plank spacing
- A dimension of 69.6ft was added to indicate the distance from the proposed deck to the approximate crest of the dune

- Detail was provided for how the boardwalk will be elevated with 4x4 pressure treated posts, and 4x4 pressure treated stringers, with 2x6 decking spaced ½ inch apart, with a span allowing for the mounting posts to be six feet apart

Ms. Fitch shared plans with the boardwalk details outlined. She noted that she believes all of the concerns previously brought up by the Commission were addressed in the amended Site Plan. She asked Mr. Burgess how it will be proposed to descend from the elevated walkway approaching the dune. Mr. Burgess deferred this response to the Commission, but suggested installation of a ramp. Ms. Fitch addressed the comments provided by Natural Heritage regarding the plan that state “additional work beyond what is shown on the Site Plan may require an additional filing with the Division.” She noted that with the limit of work now extending into priority habitat on the plan, she would request some form of communication be provided to the Commission, in writing, from Natural Heritage with their recommendations for time frame on when to proceed with the project, or otherwise. Mr. Burgess verbalized understanding. He noted that it is uncertain how far the wood walkway actually goes into priority habitat, as it is presently buried. Chm. Gray affirmed that Mr. Burgess and Mr. Hebb understand that the walkway would need to end at the property line, and would not be able to extend out to Town property. Ms. Fitch raised a question submitted by DEP of whether compatible sand be placed in the coastal dune after the existing foundation is removed. Mr. Burgess responded, stating that if adding sand would be necessary, the sand would be compatible sand. Mr. Hebb added that there is a stockpile of local sand available that he has used on other projects on Phillips Road, so sand original to the area is used if needed. Ms. Fitch raised another question from DEP that asked if the area under the proposed dwelling be planted. Chm. Gray responded stating that there would not be enough light to allow the plantings to grow.

Mr. Palumbo left the meeting.

Member comment: Mr. Ligor questioned if the area will be graded. Mr. Burgess confirmed it would be graded to match the dune. Mr. Berman thanked the applicant and representative for addressing the previous concerns of the Commission. He questioned what the shortest length that the proposed sand ramp could be. Mr. Burgess stated it would be about a six foot section. No additional member comment.

Public comment: None.

Motion made by Mr. Ligor and seconded by Mr. Holmes to close the hearing.
Motion carried 5-0-0. The hearing is closed.

Draft Order of Conditions:

All General Conditions as well as Special Conditions pursuant to Chapter 131 § 40 include:

1 2 3 4 7 9 10 11 12 14 18 19 24 27 29

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

5 6 7 9

Additional Special Conditions:

- i. All conditions included in the Natural Heritage and Endangered Species Program letter dated April 13, 2021 for NHESP File Number 20-39604 are to be incorporated into this Order of Conditions.*
- ii. Walkway must be elevated at least two feet, ramp at end can only be maximum six feet long, and the end of the walkway/ramp must terminate at the seaward property line.*
- iii. The elevated walkway construction cannot occur between April 1 and August 31, unless approved by Natural Heritage, and written response is provided to the Conservation Department.*

Motion made by Mr. Ligor and seconded by Mr. Holmes to move the draft Order of Conditions to final. **Motion carried 5-0-0. Order of Conditions is issued.**

Approval of Meeting Minutes:

- Continued to April 7, 2022

Vote to Excuse Absent Members:

- Motion made by Mr. Ligor and seconded by Mr. Holmes to excuse absent members. **Motion carried 5-0-0. Absent members excused.**

Report of the Conservation Agent:

- Brief discussion regarding an enforcement matter in Pocasset for someone that is creating their own rock groin off Barlow's Landing Beach. More will be discussed at the April 7, 2022 meeting.

II. Adjournment

Motion made by Mr. Ligor and seconded by Mr. Holmes. **Motion carried 5-0-0. Meeting adjourned at 8:56PM.**