

**Bourne Conservation Commission
Public Meeting Minutes
November 16th, 2023**

Note this meeting is being audio recorded by Bourne Conservation Department. If anyone in the audience is also recording or videotaping, they need to acknowledge such at this time.

Commission Members Present: Chair Robert Gray, Vice Chair Rob Palumbo (remote), Sarah Butler (remote), Melvin Peter Holmes, Paul Szwed, Susan Weston and Joseph Soares Jr.

Excused Members: Greg Berman and Jacob Gadbois.

Professional Staff in Attendance: Amalia Amado, Conservation Secretary.

Chair Robert Gray called to order the meeting of the Conservation Commission at 6:30 PM, conducted in person on Thursday, November 16, 2023, and held in the Bourne Veterans Community Building, 239 Main Street, Buzzards Bay, MA 02532, and held virtually by Zoom. Chair Gray explained all reviews, unless otherwise stated, are joint reviews. Applications will be processed pursuant to the Massachusetts Wetland Protection Act, M.G.L. Chapter 131, Section 40, and pursuant to Article 3.7 of the Town of Bourne Wetlands Protection Bylaw. Chair Gray said that they follow a 5-5-5 rule, and he explained the rule. Chair Gray said that if a member of the public wishes to comment they will first clearly state their full name for the record. Chair Gray asked if anyone was recording at this time other than the Conservation Department.

Abbreviated Notice of Resource Area Delineation

1. Applicant: Steven Kahian
Representative: Atlantic Design Engineers, Inc.
Project Address: 829 Scenic Highway, Bournedale
Proposed Project: To confirm the delineation of a Bordering Vegetated Wetland (BVW) and mean high water for a portion of Herring River.
- File Number: SE7-2268

Brendon Real, PE, of Atlantic Design Engineers, introduced the Abbreviated Notice of Resource Area Delineation (ANRAD) for a property encompassing approximately 2.1 acres situated at 829 Scenic Highway, positioned at the intersection of Herring Pond and adjacent to Herring River Run and Foundry Pond. This property falls within the confines of the Village Business District and is also encompassed by the Bourne Traffic Overlay District, situated within the Bournedale watershed and ACEC. Goddard Environmental Consulting conducted a delineation in October 2023, identifying wetlands both on the western side of the property and off-site to the east. Additionally, a section of Herring River crosses the property's western boundary. The delineation utilized the concrete edge containing the herring run as an approximation of the high-water mark. The purpose of the ANRAD is in preparation for a forthcoming Notice of Intent (NOI) for a mixed-use development.

At tonight's meeting, Amalia Amado, the Conservation Secretary, highlighted Mr. Real's submission of plans validated by a professional engineer's stamp. During the session, Ms. Amado addressed the report presented by Chuck Katuska, the interim Conservation Agent. She pointed out discrepancies regarding the field delineations of BVW/Bank resource areas. Additionally, the identification of the vertical concrete wall of the fish ladder as the limit of mean annual high water does not necessarily imply agreement with the ANRAD plan at this stage and there were discrepancies with the property boundaries.

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No member comment.

No public comment.

Mr. Reali granted a continuance pending a site visit with the agent for further clarification.
Continued to December 7, 2023.

Request for Determination

1. Applicant: Christopher Straub
Representative: Engineering Works, Inc.
Project Address: 25 Pier View Road, Pocasset
Proposed Project: Voluntary upgrade of a substandard septic system. The proposed project is located in an AE flood zone.
File Number: CC-23-33

Pete McEntee, PE, served as the representative for the project, entailing an upgrade to a compliant Title 5 septic system within a property situated in Land Subject to Coastal Storm Flowage, specifically designated as AE 15. Mr. McEntee also noted that no variances are being sought from the Board of Health (BOH).

Ms. Amado highlighted Mr. Katuska's report, emphasizing the necessity to safeguard mature trees whenever possible, with a directive to specify on the plan any trees slated for removal due to access requirements. Additionally, Mr. Katuska's report emphasized the identification of areas designated for construction material storage and erosion control, along with the imperative to revegetate any disturbed zones.

In response, Mr. McEntee assured that they would restore the lawn and acknowledged the necessity of removing two mature trees for the septic's placement. Chair Gray sought clarification regarding the trees' inclusion on the plan, requesting that they be circled and initialed for easy identification to obviate the need for a revised plan submission.

No member comment.

No public comment.

Motion made by Mr. Holmes and seconded by Ms. Weston for a negative two determination. Roll call: Ms. Butler-yes, Ms. Weston-yes, Mr. Swzed-yes, Mr. Holmes-yes and Chair gray-yes. **Motion carried 5-0-0.**

2. Applicant: Karen L. West
Representative: Falmouth Engineering, Inc.
Project Address: 26 Massasoit Ave, Pocasset
Proposed Project: To pump existing septic system dry, fill, and abandon. Install new 2,000 gallon tight tank as shown on plan. Remove five (5) cedar trees for construction access as shown on the plan. The project is located in an AE flood zone, V flood zone and within 100' of a wetland resource area.
File Number: CC-23-34

Mike Borselli, PE, served as the representative for the project. The property has salt marsh frontage and currently functions as a seasonal home utilizing a cesspool. The applicant seeks to transition to a tight tank rather than a septic system due to the necessity of acquiring a variance from the Board of Health (BOH). The prevalent trend on this avenue leans towards tight tank installations as they eliminate

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discharge, which is beneficial to the salt marsh. The tight tank is equipment with a float system alarm and will require scheduled pumping.

The access route to the rear of the house will be established from the right side, necessitating the removal of five trees situated along this path. Additionally, an existing oak tree, leaning towards the house, will also need to be removed.

Ms. Amado discovered a previous RDA that was issued last year when she received a homeowner's call regarding tree removals. The previous plan, designed by a different engineer, was for the front yard, involving the removal and subsequent reattachment of the existing deck. However, the preferred location now resides in the backyard, eliminating the need for variances. This alteration has been approved by the Board of Health (BOH).

No member comment.

No public comment.

Motion made by Mr. Holmes and seconded by Ms. Weston for a negative two determination.

Roll call: Ms. Butler-yes, Ms. Weston-yes, Mr. Swzed-yes, Mr. Holmes-yes and Chair Gray-yes. **Motion carried 5-0-0.**

3. Applicant: Bret Ellis of Done Right Excavation & Septic File Number: CC-23-35
Representative: Geo-Cape Environmental Consultants
Project Address: 9 Pocahontas Road, Pocasset
Proposed Project: To replace failed cesspools with a Title 5 septic system located in an AE flood zone.

Bret Ellis, the contractor overseeing the project, clarified that it involves a septic upgrade to eliminate cesspools and will require the removal of four trees. Mr. Katuska's report specified the need to pinpoint construction material locations and erosion control sites while emphasizing the revegetation of disturbed areas. In response, Mr. Ellis confirmed their plan to apply loam and seed, ensuring no materials will be stored onsite for construction. Additionally, he proposed the installation of a soft waddle erosion control at the access point adjacent to the road.

No member comment.

No public comment.

Motion made by Ms. Weston and seconded by Mr. Szwed for a negative two determination.

Roll call: Ms. Butler-yes, Ms. Weston-yes, Mr. Swzed-yes, Mr. Holmes-yes and Chair Gray-abstained. **Motion carried. 4-0-1.**

4. Applicant: Bruce and Keri Wenzel File Number: CC-23-36
Representative: Same
Project Address: 95-98 Tahanto Road, Pocasset
Proposed Project: To complete site work previously permitted in the order of conditions for DEP file number SE7-2049. This project is in an AE flood zone, within 100 ft. of wetland resource area and within 200 ft. of a riverfront.

Bruce Wenzel, the homeowner, is requesting an extension to complete previously permitted site work outlined in the Order of Conditions under DEP file number SE7-2049. Plan dated 12/04/2018 by Warwick Associates accompanied by planting plan prepared by Mike Ball. Chair Gray mentioned that

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this application initially submitted as a Notice of Intent (NOI) received an Order of Conditions, which faced an appeal from the abutter. Following a comprehensive review by the DEP that favored the applicant, the approved work outlined in the Order hasn't commenced, and as the order has expired, instead of filing another NOI, a review is being conducted under a Request for Determination of Applicability (RDA).

No member comment.

No public comment.

Motion made and seconded by Mr. Holmes for a negative two determination, with the plans reflected to align with the original Order. Roll call: Ms. Butler-yes, Ms. Weston-yes, Mr. Swzed-yes, Mr. Holmes-yes and Chair Gray-yes. **Motion carried. 5-0-0.**

5. Applicant: Town of Bourne File Number: **CC-23-29**
Representative: Green Seal Environmental, LLC
Project Address: 0 Eel Pond Rd and corner of Marilyn Rd, Buzzards Bay
Proposed Project: Drainage improvements to the outfall off the existing walking path, to where it discharges to the Eel Pond (Pond). **Continued to December 7th, 2023.**

Notice of Intent

1. Applicant: Dennis Lee DEP File Number: **SE7-2264**
Representative: JC Engineering, Inc.
Project Address: 10 Sunny Lane, Gray Gables
Proposed Project: Septic system upgrade in an AE flood zone, within 100 ft. of wetland resource area and 200 ft. of a river front. **Hearing closed on 11.02.2023.**

The draft order of conditions is to include all general conditions, as well as the following special conditions pursuant to Mass General Law Chapter 131, section 40:

1,2,3,5,7,8,10,12,13,18,19,27,28 and 29. Special Conditions pursuant to the Bourne Wetland Protection Bylaw Article 3.7 including: **4,5,6,7 and 9.**

Motion made by Ms. Weston to approve the draft order seconded by Mr. Holmes. Roll call: Ms. Butler-yes, Ms. Weston-yes, Mr. Swzed-yes, Mr. Holmes-yes and Chair Gray-yes.

Motion carried 5-0-0.

2. Applicant: Town of Bourne c/o Timothy Lydon DEP File Number: **SE7-2269**
Representative: Daniel Cannata of VHB Inc.
Project Address: 0 Old Monument Neck Rd, Bourne (Mass Coastal Railway Layout)
Proposed Project: Bourne Rail Trail Phase 1. Work consists of constructing a 10-foot wide shared use path (SUP) along the west side of the existing Mass Coastal Railway Corridor between the existing parking areas at the Tidal Flats Recreation Area on Monument Neck Road near its intersection with President's Road. **Continued to December 7th, 2023.**
3. Applicant: The Blanchard Family Living Trust DEP File Number: **SE7-2265**
Representative: JC Engineering, Inc.
Project Address: 27-E Nautical Way, Buzzards Bay

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Proposed Project: Reconstruct the cottage on existing foundation and replace existing deck with a new 16' x 24' deck. The work will take place within a V flood zone and 100 ft. of wetland resource area.

Sam Iamele, PE, served as the project representative for the homeowner in Hideaway Village. The project involves the reconstruction of a 400 sq. ft. cottage, maintaining its single-story structure, with a marginally expanded deck intended to divert foot traffic from the coastal beach. The existing foundation will be retained, and the only ground disturbance will be the installation of five helical piles within the grass lawn area. Ms. Weston, abstained from the proceedings.

Ms. Amado read Mr. Katuska's report: The entire parcel falls within the LSCSF-FEMA Zone VE, with an elevation of 19'. It includes areas designated as Coastal Beach, Coastal Bank, and 100' buffer zones adjacent to the onsite Coastal Beach. The proposed modifications entail the addition of a new deck supported by three helical piles and new stairs leading to the ground level, all situated on the existing developed coastal bank. All impacts to the Coastal Bank will be confined within the existing grassed lawn area on the site. There are no proposed impacts to the Coastal Beach. However, the new, larger deck is projected to encroach to within 27.4' of the Coastal Beach, whereas the closest existing feature to be modified, the toe of the current deck stairs, extends only to within 34' of the Coastal Beach.

No member comment.

No public comment.

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

Roll call: Ms. Butler-yes, Mr. Szwed-yes, Mr. Holmes-yes, Chair Gray-yes, and Ms. Weston-abstained. **Motion carried 4-0-1.**

The draft order of conditions is to include all general conditions, as well as the following special conditions pursuant to Mass General Law Chapter 131, section 40:

1,2,3,4,6,7,9,10,12,13,15,16,18,19,21,26,27,28 and 29. Special Conditions pursuant to the Bourne Wetland Protection Bylaw Article 3.7 including: **4,5,6 and 7.**

Motion made to accept the draft by Mr. Holmes and seconded by Mr. Szwed. Roll call: Ms. Butler-yes, Mr. Szwed-yes, Mr. Holmes-yes, Chair Gray-yes, and Ms. Weston-abstained.

Motion carried 4-0-1.

Chair Gray recused himself from the next two NOI reviews.

4. Applicant: Lori E. Jablonski

DEP File Number: **SE7-2266**

Representative: Bracken Engineering, INC.

Project Address: 81 Harbor Drive, Pocasset

Proposed Project: Construction of additions to a single-family dwelling, Title 5 septic system upgrade with Innovative Alternative (I/A) technology, landscaping, grading and associated utility work within 100' of a wetland resource area, in an AE flood zone and in a V flood zone.

Zac Basinski, P.E., served as the project representative for the proposed project. The property, housing a structure from the 1960s, predates FEMA regulations. The applicant's intent is to incorporate a garage addition, fill the space between the existing house and the new garage, and

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enhance the onsite septic system. Plans include the implementation of erosion controls on-site, with minimal alterations to the landscape.

The Engineering and Building departments thoroughly reviewed the project, determining that it does not meet the criteria to activate FEMA building requirements. Consequently, it qualifies as a non-substantial structure, allowing for implementation without the need to comply with FEMA regulations.

Ms. Amado reviewed Mr. Katuska's report, acknowledging that the proposed project strives to maintain environmental integrity amidst site conditions. Mr. Katuska's report highlighted an existing pier section and float stored within a wetland resource area, independent of the current project, posing a potential violation.

In response, Mr. Basinski addressed Mr. Katuska's concerns by noting that the seasonal pier had predated the Town's regulations. He expressed hope that the situation could be resolved by conditioning the order and undergoing a thorough permitting review with the agent.

No public comment. No member comment.

Motion to close the public hearing made by Ms. Weston and seconded by Mr. Szwed. Roll call: Ms. Butler-yes, Mr. Swzed-yes, Mr. Holmes-yes, Ms. Weston-yes and Chiar Gray-abstained. Motion carried 4-0-1.

The draft order of conditions is to include all general conditions, as well as the following special conditions pursuant to Mass General Law Chapter 131, section 40:

1,2,3,4,5,7,9,10,12,13,15,18,19,21,26,27,28 and 29. Special Conditions pursuant to the Bourne Wetland Protection Bylaw Article 3.7 including: **4,5,6,7, 9, 17 and 20.**

ASC-1: The permit holder is required to collaborate with the harbor master to obtain a Section 10 permit.

Motion to accept the draft made by Ms. Weston and seconded by Mr. Szwed. Roll call: Ms. Butler-yes, Mr. Swzed-yes, Mr. Holmes-yes, Ms. Weston-yes and Chiar Gray-abstained.

Motion carried 4-0-1.

5. Applicant: Ian E. Davies DEP File Number: **SE7-2270**
Representative: Bracken Engineering, Inc.
Project Address: 7 Gainsboro Drive, Buzzards Bay
Proposed Project: To construct a 3-foot wide by 125-foot long seasonal pier, ramp and float system with a permanent walkway, including all associated utilities grading and landscaping. The proposed project is located within 100' of a wetland resource area and in a V flood zone.
Continued to December 7th, 2023.
6. Applicant: William R. Keating DEP File Number: **SE7-2267**
Representative: Bracken Engineering, Inc.
Project Address: 10 Briarwood Lane, Monument Beach

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Proposed Project: To construct a 3-foot wide by 131-foot long seasonal pier, ramp and float system with permanent platform. The work will take place in a V flood zone and within 100 ft. of wetland resource area.

Zac Basinski, P.E., representative for the applicant, who owns a developed single-family house lot. The proposal entails the construction of a standard wooden dock designed to meet specified width regulations. Notably, the proposed dock will not encroach upon saltmarsh areas and extends outward 131 feet from the mean high water line. Additionally, Brad Holmes from ECR conducted a comprehensive survey to assess the presence of shellfish and eelgrass within the designated area and found no presence of eelgrass and identified 22 quahogs, without any reportable shellfish, meeting the required minimum criteria. The proposed project adheres to all setback regulations concerning adjacent moorings, and it involves a seasonal dock intended for use from April through the fall, with storage located off the designated site. The proposal does not include any planned lighting and it does not fall within natural heritage zone. The dock is set at a depth of 18 inches, although the Department of Marine Fisheries (DMF) typically recommends a depth of 30" for shellfish. The proposed 10x20 float aligns with all stipulated standards.

Ms. Amado confirmed no further remarks or additional comments from Mr. Katuska at this time. Ms. Weston inquired if, at low tide, the structure rests on anything at the bottom. Mr. Basinski responded, confirming that at 18" during low tide, the structure remains without the need for float stops.

Public comment: John York inquired about the required dock length concerning the proposed 131 feet. Mr. Soares indicated that the requirement specifies 125 feet beyond Mean High Water (MHW). Mr. Basinski clarified that the proposed dock extends 100 feet past MHW, with the additional 30 feet extending over beach area.

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

Roll call: Ms. Butler-yes, Mr. Swzed-yes, Mr. Holmes-yes, Ms. Weston-yes and Chair Gray-abstained. **Motion carried 4-0-1.**

Ms. Amado mentioned that a draft order wasn't prepared at this time and there would be one available for the next hearing December 7th.

Chair Gray resumed position as the chair.

7. Applicant: Bishop-Megansett Family Limited Partnership DEP File Number: **SE7-2260**
Representative: Cape & Islands Engineering, Inc.
Project Address: 80 Megansett Road, Cataumet
Proposed Project: Proposed seasonal installation and maintenance of a timber pier with an aluminum ramp and a pile-supported 8 x 12-foot float in the waters of Squeteague Harbor. The work will take place in a V-flood zone, within 200 ft. of a riverfront area and 100 ft. of wetland resource area. **Continued from 11.02.2023.**

Mark Dibb PE represented the project and submitted five documents, all of which maintained the last revised plan dated October 13, 2023. These documents encompassed a final summary letter detailing their approach to meeting the 1/5 water body requirement, in accordance with the Army Corps. Engineering guidelines extensively discussed during the hearings. Additionally, three documents were included referencing 96 Megansett Rd, providing insights into the methodology employed to achieve the 1/5 measurement.

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Ms. Amado mentioned that she has received public comments subsequent to the meeting, notably from Joseph McGurl, Linda Carpenter, and Jay Swent. Additionally, there were supplementary comments provided by the applicant.

Joseph McGurl submitted a public comment expressing his attempts to engage an engineering firm, finding them all booked. Instead, he reached out to Mass DEP and highlighted the similarities between Mass DEP regulations and Bourne's regulations concerning the measurement across water bodies. He noted a slight difference, Mass DEP requires 1/4 measurement across, while Bourne specifies 1/5 due to the wider and shallower nature of the waters in Bourne. Joseph McGurl stressed that measuring across the water body was intended to be consistent, advocating for a point-to-point assessment at the narrowest location, as this is the primary concern. McGurl shared correspondence with DEP, providing the project's address and the engineer's drawings. DEP marked where they would measure, indicating from Mean High Water to Mean High Water across opposite banks. He voiced concerns comparing this project to 96 Megansett Road, particularly regarding reasonable unobstructed waterways and concerning private use piers. Joseph McGurl emphasized that the cove serves as a frequent hub for public use, accommodating commercial enterprises and providing photographic evidence of vibrant sailing programs. He highlighted the significance of this cove, noting that its sheltered nature becomes particularly crucial during strong winds in Buzzards Bay, offering the sole protection when the Harbor experiences windy conditions.

Ms. Weston pointed out that the regulations do not explicitly mention 'perpendicular,' irrespective of any past references to it. She expressed alignment with Joseph McGurl's comments, finding them logical. Mr. Holmes acknowledged the historically debatable nature of the 1/5 measurement but noted that the recent explanations shed clearer light on it, confirming it doesn't meet the criteria. On the other hand, Mr. Soares, after walking the property and thoroughly reviewing the plans, expressed confidence that the pier aligns with every requirement on the checklist. He relies on the guidance provided by the professional engineer's plans.

Mr. McGurl highlighted that Mass DEP's measurement standards would not align with these measurements. Mr. Soares questioned why piers existed on the opposite side, to which Mr. McGurl clarified that his structure is deemed a wooden walkway for accessing the water over muddy conditions. He illustrated how navigation would be restricted. Mr. Soares referenced guidance from the Army Corps of Engineers, advocating for equitable distribution of usage, suggesting that it should be shared rather than favoring one side. Mr. McGurl emphasized the limited space within the small cove, questioning the feasibility of accommodating two large piers.

Mark Dibb addressed Mr. McGurl's correspondence with DEP's measurement across the water body, highlighting that it lacked specificity on implementing a 1/5 measurement. He noted that the question raised was indirect and didn't directly address the crucial aspect of how to execute a 1/5 measurement across, contributing to credibility concerns and ongoing debate on measurement methods aligned with the bylaw. Mr. Dibb presented a timeline contextualizing the reference to 96 Megansett Rd and emphasized that the means of measurement remained consistent. He elaborated on their approach, citing a step-by-step feasibility study undertaken during the 80 Megansett Rd pier project, which initially met the town's regulations based on received guidance. However, comments from an abutter on August 17th altered the situation. Despite this, Dibb maintains confidence in the accuracy of their calculations, prompting further discussion on the 1/5 measurement.

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Chair Gray noted that Joseph McGurl didn't consult with an engineer to provide an opinion letter. He highlighted the existence of a guidance document from DEP and Chapter 91 tailored for small piers. However, Chair Gray clarified that this specific guidance wouldn't be applicable to this review as there will be an independent opportunity for DEP and related authorities to conduct their own comprehensive review. Drawing from his familiarity with working alongside DEP, Chair Gray pointed out that McGurl's response from them might not hold conclusive weight, as it wasn't a thorough and comprehensive review; it could potentially be overridden by a subsequent, more comprehensive evaluation of the project by another reviewing party.

Lisa Marroni advocated on behalf of the applicant, endorsing their proposal. She additionally examined the minutes from the 2021 peer review session regarding 96 Megansett Road, specifically addressing the 1/5 measurement across the area. During the review, it was established that in one direction, the measurement complied using the perpendicular method, a conclusion agreed upon by the peer reviewers. Furthermore, Ms. Marroni proactively contacted Carlos Fragata, the Department Head of Waterways at Mass DEP. Fragata clarified that measurements are taken straight across to ensure navigable space for boats without extending structures too far out. These measurements are based on a perpendicular point. Fragata emphasized that kayaks, being closer to the shore, do not pose a concern within this measurement framework. Ms. Marroni read a statement from the Army Corps of Engineers. Ms. Marroni highlighted that during her visits over two summers at 80 Megansett Rd, she did not observe the volume of boat activity as depicted in the photos submitted by Mr. McGurl. When Chair Gray inquired about the comments attributed to Carlos Fragata, Ms. Marroni clarified that they were derived from her personal notes taken during a phone conversation. Chair Gray emphasized the need for written documentation to substantiate such information, suggesting that in the future, it would be beneficial to acquire written confirmation.

Jay Swent expressed significant reservations regarding the methodology employed in the assessment of the project. He emphasized that the angle of design seemed to have more weight in the evaluation process than determining the centerline. According to Swent, this approach failed to consider approval from various angles, potentially resulting in biased measurements. He specifically noted concerns about the angle's deviation, suggesting that any measurement point selected would result in the pier's failure. Swent stressed the necessity of a comprehensive peer review for the project due to these discrepancies in methodology. In relation to this issue, Chair Gray inquired why Mr. Swent chose a specific point for measurement and questioned the proposed dock's location. Mr. Swent responded by stating that regardless of the measuring point, the pier would fail, prompting his call for a peer review. He expressed worries that if the current methodology were approved, it might pave the way for the approval of a previously denied project at 96 Megansett Rd, potentially leading to navigation hazards at the narrowest point.

Mr. Dibb then spoke, addressing concerns about the 96 Megansett Rd project by mentioning site visits conducted by the cove and harbormaster, which reportedly found no navigational issues. However, further discussion centered on differing opinions about measurements and potential impacts. Chair Gray sought clarification about whether a similar site visit was conducted by the cove and harbormaster for the 80 Megansett Rd project. Mr. Dibb indicated that such an inquiry hadn't been made in contrast to the evaluation process for the 96 Megansett Rd project. Mr. Bishop presented two letters of support for the 96 Megansett Road project, submitted by an abutter and Attorney Watsky. Chair Gray raised a critical issue that lies at the core of this and similar submissions: the commission's basis for decision-making. Chair Gray emphasized that the commission's decisions predominantly hinge on professionally designed and engineered plans. He

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highlighted the rarity of instances where the commission entertains projects based on sketches from individuals who aren't professional designers or engineers. Chair Gray specified that such exceptions might be made in scenarios where a proposed deck aligns with an existing engineered plan. This underlines the commission's reliance on plans of professional quality and accreditation in their assessment and approval processes. Chair Gray expressed his stance on the scenario where a layperson presents a dock design, highlighting the personal dilemma it poses. He articulated that, despite this, his inclination remains towards examining plans from professional engineers. However, he mentioned that if someone with the same professional license were to provide a report based on an analysis of the engineering plan, that report would carry more weight in his considerations. Ms. Weston voiced her disagreement with the engineer's measurements, stating that the upcoming winter's revisions in regulations would offer more specificity on measurement guidelines.

Mr. Holmes acknowledged the strong arguments put forth by the public. Mr. Szwed highlighted the challenge stemming from the absence of an established methodology for assessment. Mr. Soares acknowledged the validity of the public's points but indicated his decision to align with the engineer's perspective. Ms. Butler conveyed the difficulty in making a determination due to the way the regulations are written. She noted that everyone had made relevant points, particularly regarding the perpendicular method of measurement. Further conversation continued regarding the measurements, delving deeper into the topic. Rob Palumbo acknowledged that he is present and had been present on the Zoom call throughout the entire discussion.

The discussion persisted regarding the verbiage within the Bourne bylaw and its associated regulations. The focus remained on interpreting the term 'across' in the regulations and determining the specifics of what constitutes the 1/5 waterbody measurement. Chair Gray highlighted that the term 'across' lacked explicit direction regarding the use of perpendicularity or an angle/centerline, suggesting that various methodologies leading to the same outcome could be acceptable if this is appealed in court and reviewed by a judge.

Mr. Bishop and Mr. Dibb proposed a brief postponement of the topic, suggesting a five-minute break to further deliberate. They also advocated for a commission vote on the issue during the current meeting.

Chair Gray underscored the importance of uniformity in the methodology, stating that it should consistently yield the same outcome irrespective of the person implementing it. However, Chair Gray also noted the imperative need to revise the regulations to explicitly denote this requirement.

Motion to close the hearing by Ms. Weston and seconded by Mr. Holmes. Roll call: Ms. Weston-yes, Mr. Holmes-yes, Mr. Palumbo-yes, Ms. Butler-yes and Chair Gray-yes. **Motion carried 5-0-0.**

Mr. Palumbo motioned to approve the project with conditions seconded by Chair Gray which was put into a discussion. Chair Gray heard none. Roll call: Ms. Weston-no, Mr. Holmes-no, Ms. Butler-no, Mr. Palumbo-yes, Chair Gray-yes. **Motion failed 2-3-0.**

Ms. Weston moved to deny the project seconded by Ms. Butler. Roll call: Ms. Weston-yes, Ms. Butler-yes, Mr. Holmes-yes, Mr. Palumbo-no, Chair Gray-no. **Motion carried 3-2-0.**

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Mr. Szwed abstained from the vote due to missing the last hearing, in accordance with the Mullins rule.

A written denial needs to be drafted and presented at the next meeting.

Request for Certificate of Compliance

- 1) Applicant: Sophia Catrambone DEP File Number: SE7-2034
Representative: Bracken Engineering, Inc.
Project Address: 128 Wings Neck Road, Pocasset
Proposed Project: Certificate of Compliance requested for Order of Conditions issued on 9/26/2018. The project is located in a V-Flood Zone and within 100' ft. of a wetland resource area, included the installation of a stone patio, retaining walls and landscape improvements.

This serves as a follow-up on COC (Certificate of Compliance). Stevie conducted a site visit on 8/17/2023 and confirmed that they are now compliant since they have anchored down their shed. Motion made by Mr. Palumbo to grant the COC and seconded by Mr. Holmes.
Roll call: Ms. Butler-yes, Ms. Weston-yes, Mr. Szwed-yes, Mr. Holmes-yes, Mr. Szwed-yes and Chair Gray-yes. **Motion carried. 6-0-0.**

- Report of the Conservation Department: The interim agent made a site visit at 42 Monument Avenue regarding a "temporary stabilization" of their seawall. Chuck suggested that the Commission should get a written commitment for a full replacement. Would they like the engineer to come to a meeting for a discussion?
The Commission said to apply first and go from there.

Vote to excuse absent members Mr. Berman and Mr. Gadbois.
Motion made by Ms. Weston and seconded by Mr. Holmes. Roll call: Ms. Butler-yes, Ms. Weston-yes, Mr. Szwed-yes, Mr. Holmes-yes, Mr. Szwed-yes and Chair Gray-yes. **Motion carried. 6-0-0.**

Vote to adjourn. Motion made by Mr. Holmes and seconded by Mr. Szwed. Roll call: Ms. Butler-yes, Ms. Weston-yes, Mr. Szwed-yes, Mr. Holmes-yes, Mr. Szwed-yes and Chair Gray-yes.
Motion carried. 6-0-0.

Minutes typed by- Amalia Amado, Conservation Secretary
Audio recorded by the Conservation Department

Reasonable accommodations for people with disabilities are available upon request. Include a description of the accommodation you will need, including as much detail as you can and include a way we can contact you if we need more information. Please allow advance notice. Send an email to kthut@townofbourne.com or call the Town Administrator's Office at 508-759-0600 x1503.