

**Town of Bourne  
Conservation Commission  
Public Meeting Minutes  
April 18, 2024**

BOURNE TOWN CLERK  
MAY 6 '24 PM 3:37

*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, Sarah Butler (remote), Peter Holmes, Paul Szwed, Joesph Soares and Susan Weston

**Professional Staff in Attendance:** Stephanie Fitch, Conservation Agent

Chair Robert Gray called to order the meeting of the Conservation Commission at 6:30 PM, conducted in person on Thursday, April 18, 2024, 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

Request for Determination

1. Applicant: Glenn Redgate File Number: CC-24-11  
Representative: Same  
Project Address: 66 Lake Drive, Pocasset  
Proposed Project: Replace existing landscape timber wall under side of deck and timber walkway at back-side of house with segmental block located within 100 ft. of wetland resource area.

Glenn Redgate, the homeowner, presented his project as the replacement of pressure-treated landscape railroad ties. He plans to remove them using a Dingo machine and replace them with segmental blocks.

Ms. Fitch had a conversation with the homeowner at the beginning of March. The property borders Picture Lake, with the upper boundary of the bank being the first observable break in slope or the mean annual flood level. It's located in an X flood zone, meaning there's no land subject to flooding nearby.

The area is currently landscaped with grass extending down to the beach, but it's steep, with erosion gullies leading towards the pond. Ms. Fitch was pleased to note that the proposal includes the installation of drywells for the downspouts. Furthermore, the property falls within PH 311, so it's essential to ensure that the work is conducted meticulously to minimize any potential adverse impacts on the resource area during construction. Post-construction measures should also be implemented to stabilize any disturbed areas.

No public comment.

Mr. Holmes motioned for a negative determination, which was seconded by vice chair Palumbo. Roll call: Ms. Weston-abstained, Mr. Holmes-yes, Mr. Szwed-yes, vice chair Palumbo-yes, Mr. Soares-yes, Ms. Butler-yes and chair Gray-yes. **Motion carried 6-0-1.**

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2. Applicant: Robert Gendron File Number: CC-24-12  
Representative: Green Seal Environmental, LLC  
Project Address: 23 Burtonwood Ave, Monument Beach  
Proposed Project: To construct an addition, pervious driveway and associated grading located within an AE flood zone.

Stu Clark served as the project representative and provided an overview of the project, highlighting that it involves an addition to a single-family house situated on a 10,000 sq ft. lot. The property falls within an AE flood zone and is designated within the ACEC to Eel Pond area. The proposed work includes the construction of a garage, deck and the relocation of the septic tank and driveway from Beach Street.

In response to requests from the agent, the inclusion of drywells to capture roof runoff has been proposed. Ms. Fitch confirmed the property's designation within the ACEC and AE flood zone, but noted that she had not received the revised plan including the drywells. It was agreed that the revised plan would be emailed to her promptly.

Ms. Fitch raised no further concerns, noting that the lot is flat and covered with grass. Additionally, she confirmed that discussions had been held with the Health Department regarding the septic system filing.

Daron Songer, an abutter, expressed concerns regarding the relocation of the driveway and potential impacts of the sizable addition of potential runoff near his property and adjacent resource areas. He also inquired about the structure's compliance with height requirements.

In response, Mr. Clark addressed the conservation-related issues, explaining that the addition aligns with the top elevation of the AE flood zone at 15 feet, with the existing house at 14.2 feet. He assured that the proposed driveway would utilize pervious pavers, minimizing runoff, and that drywells would be installed to collect roof runoff. Furthermore, Mr. Clark expressed confidence that the project would not adversely impact the wetland systems.

Mr. Songer requested to review the plans. Chair Gray acknowledged this request and clarified that for matters beyond the Conservation Commission's jurisdiction, such as building height compliance and other permitting issues, Mr. Songer should contact the planning, building, and health departments, which will also review the building permit application.

Ms. Fitch also confirmed the inclusion of the removal of two trees as indicated on the plans.

Mr. Holmes motioned for a negative determination, which was seconded by vice chair Palumbo. Roll call: Ms. Weston-yes, Mr. Holmes-yes, Mr. Szwed-yes, vice chair Palumbo-yes, Mr. Soares-yes, Ms. Butler-yes and chair Gray-yes. **Motion carried 7-0-0.**

3. Applicant: Richard & Susan Dow File Number: CC-24-13  
Representative: Empire Design Build  
Project Address: 6 Bell Rd. Ext., Gray Gables  
Proposed Project: To remove existing garage/shed structure and build new 20'x 20' family room located in an AE flood zone.



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Susan Dow, the homeowner, attended the meeting to represent her project as her builder had a conflicting schedule. Ms. Dow provided an overview, explaining that the existing older house features an L-shaped addition. The proposed project involves both replacing and adding 200 square feet to the structure. She noted that the property is situated close to the property line and that the extension will be directed more towards the landward side.

Ms. Fitch provided information regarding the property's location within the AE flood zone, noting that it had been delineated outside the salt marsh buffer. Initially, she had suggested adding drywells to collect roof runoff. However, after conducting a site visit, she observed that the addition is positioned on the landward side, further away from the salt marsh. Consequently, she determined that there was no immediate concern regarding gullies, leading her to conclude that drywells were unnecessary for the project.

No public comment.

Mr. Holmes motioned for a negative determination, which was seconded by Ms. Butler. Roll call: Ms. Weston-yes, Mr. Holmes-yes, Mr. Szwed-yes, vice chair Palumbo-yes, Mr. Soares-abstained, Ms. Butler-yes and chair Gray-yes. **Motion carried 6-0-1.**

4. Applicant: George Ajami

File Number: CC-24-14

Representative: G.A.F. Engineering, Inc.

Project Address: 700 County Road, Bourne

Proposed Project: To construct an in-ground pool, patio, outdoor kitchen, pavilion and fence. This project is located within the Riverfront Area.

Brian Grady represented the project and shared its history, mentioning that the site had been previously reviewed by the commission about 9-10 years ago to permit a retaining wall. He explained that they are now revisiting the site to propose the installation of an in ground swimming pool and patio area. This development falls within the outer portion of the riverfront buffer, and he emphasized that the project does not lie within an ACEC (Area of Critical Environmental Concern) area.

Ms. Fitch noted that the project partially encroaches into the 100-200 ft. buffer of the riverfront. She acknowledged that it falls under 310 CMR 10.58, which designates it as an exempt activity eligible for filing as a Request for Determination of Applicability (RDA). Describing the site as a flat landscaped lawn, she expressed her belief that the proposed project would not result in adverse impacts compared to the current conditions on site. However, she suggested the inclusion of a drywell to accommodate partial pool drawdown, though not necessarily all of it, as a precautionary measure. Ms. Fitch also shared relevant photos.

In response, Mr. Grady mentioned the presence of two drywells that might require relocation, indicating a willingness to incorporate this into the plan. He acknowledged the need for a revised plan showing the drywells before obtaining a building permit sign-off.

Mr. Holmes motioned for a negative determination, which was seconded by Mr. Szwed. Roll call: Ms. Weston-yes, Mr. Holmes-yes, Mr. Szwed-yes, vice chair Palumbo-yes, Mr. Soares-yes, Ms. Butler-yes and chair Gray-yes. **Motion carried 7-0-0.**

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Notice of Intent

1. Applicant: Rob Leavell, Cape Associates Inc. DEP File Number: **SE7-2277**  
Representative: Graham Carr, Vital Structures LLC  
Project Address: 42 Monument Avenue, Monument Beach  
Proposed Project: Repairs to stabilize existing concrete seawall within 100 ft. of wetland resource areas and in a VE Flood Zone. **Continued to 5.16.2024.**
  
2. Applicant: Michael & Kate McGovern DEP File Number: **SE7-2290**  
Representative: Falmouth Engineering, Inc.  
Project Address: 1 Old North Rd, Pocasset  
Proposed Project: Property improvements including installation of a proposed pool and pool house, construction of a 30'x45' sports court and installation of a new septic system. The work will take place in an AE flood zone, V flood zone and within 100 ft. of a wetland resource area. **Continued from 3.07.2024.**

Michael Borselli represented the project and provided updates for the continued hearing, addressing comments regarding the revisions made. He mentioned that Blue Flax delineated the wetland, which was deemed conservative. As part of the revisions, he incorporated the 50-100 wetland offset onto the plan. The project is positioned just outside the 50-foot buffer, with flood zone designations AE 15 and VE 17. Additionally, they are planning to remove three pitch pines, and the pool security fence has been adjusted to be further from the delineation flags as it does not need to be in close proximity to the Bordering Vegetated Wetland (BVW). Mr. Borselli clarified that the fence had been relocated closer to the pool, now positioned approximately 10 feet away from the undisturbed buffer, aligning with the landscape line. In response, Ms. Fitch recommended conditioning the order to ensure that there would be no further encroachment into the 50-foot buffer zone.

Chair Gray proposed that the delineation presented might not encompass all the wetlands on the parcel, as it focuses solely on the areas where the proposed work will occur, rendering it a partial delineation. He recommended conditioning the order to clarify that the site plan pertains exclusively to the proposed work area and not the entirety of the site. This clarification is essential given that the plan remains valid for three years.

No public comment.

A motion was made to close the public hearing by Mr. Holmes and seconded by Ms. Weston. Roll call: Ms. Weston-yes, Mr. Holmes-yes, Mr. Szwed-yes, vice chair Palumbo-yes, Mr. Soares-yes, Ms. Butler-yes and chair Gray-yes. **Motion carried 7-0-0.**

Draft Order of Conditions contains all general conditions and special conditions pursuant to the Massachusetts Wetlands Protection Act, M.G.L. c. 131, § 40. 1, 2, 3, 4, 7, 10, 12, 14, 17, 29, 30 and 31. Special conditions pursuant to the Bourne Wetland Protection Bylaw, Article 3.7 including, 5, 6, 7 and 9.

**ADDITIONAL SPECIAL CONDITIONS pursuant to the Bourne Wetland Protection By-Law Article 3.7**

**ASC-1)** The existing lawn and landscaped areas cannot be expanded toward the wetlands beyond the current footprint.



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**ASC-2)** The approved plan dated 4/8/24 only delineates the wetlands closest to the proposed work. Any new filing for this property will require flagging of the entire wetland system.

**Special Condition Number 17 and ASC-1** above shall continue in perpetuity beyond the limitations of this Order and with the sale of the property to others.

A motion was made to move the draft to the final by Ms. Weston and seconded by Mr. Holmes. Roll call: Ms. Weston-yes, Mr. Holmes-yes, Mr. Szwed-yes, vice chair Palumbo-yes, Mr. Soares-yes, Ms. Butler-yes and chair Gray-yes. **Motion carried 7-0-0.**

3. Applicant: Richard W. Selby DEP File Number: **SE7-2288**  
Representative: Tighe & Bond  
Project Address: 134 Wings Neck Rd, Pocasset  
Proposed Project: A proposed dock system within a velocity flood zone and within 100 ft. of wetland resource areas. **Continued from 4.04.2024.**

Cole Bateman represented the project on behalf of the applicant. He noted that this was the third continued hearing aimed at presenting changes. The revisions included two main aspects: first, they had defined the distinctions more clearly on the plan between what constituted a pier and dock versus walkways. Secondly, they had revised the plan to remove a 10 x 10 seasonal portion of the pier, resulting in the entire pier now being 4 feet wide, except for the float. With these updates explained, he then turned the presentation back over to the commission.

Ms. Fitch stated that following the revisions, the project now meets the (BWR).

No public comment.

A motion was made to close the public hearing by Mr. Holmes and seconded by vice chair Palumbo. Roll call: Ms. Weston-yes, Mr. Holmes-yes, Mr. Szwed-yes, vice chair Palumbo-yes, Mr. Soares-yes, Ms. Butler-yes and chair Gray-yes. **Motion carried 7-0-0.**

**The draft order will be finalized and set by the next hearing date, which is scheduled for May 2<sup>nd</sup>, 2024.**

Request for Certificate of Compliance

1. Applicant: Thanos & Danielle Gossios DEP File Number: **SE7-2178**  
Representative: Marsh Matters Environmental  
Project Address: 295 County Road, Bourne  
Proposed Project: Certificate of Compliance requested for Order of Conditions issued on 12/21/2021. In-ground pool installation within 100-feet of a wetland resource area.

Ms. Fitch reported from her site visit, noting that approximately 55 square feet shown on the as-built plan encroached within the 50-foot buffer zone. She mentioned that all mitigation plantings had been completed around both sides of the area. Therefore, she left it to the Commission to decide how they felt about this issue.

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Chair Gray recalled the site, mentioning that there was a former cranberry bog that had become a wetland. He expressed his lack of concern regarding the delineation of the cranberry bog. He explained that depending on the location of the bog ditch, if delineated on the upland side, it could potentially be in favor of the commission by up to 3 feet or so.

A motion was made to grant the Certificate of Compliance. Roll call: Ms. Weston-yes, Mr. Holmes-yes, Mr. Szwed-yes, vice chair Palumbo-yes, Mr. Soares-yes, Ms. Butler-yes and chair Gray-yes. **Motion carried 7-0-0.**

- Discussion on Bourne Wetlands Regulations: MHW delineation on groins and construction within eelgrass.

Ms. Fitch had contacted the Army Corps of Engineers to inquire about their methodology for measuring Mean High Water (MHW) in cases where it has been altered by a groin. Specifically, she sought clarification on whether they measure from the shoreline, as stated in Bourne's definition.

The response clarified that the Army Corps of Engineers measure Mean High Water (MHW) based on the current conditions altered by the groin. In this approach, MHW is measured on the groin itself rather than the shoreline. The reasoning behind this method is that considering past conditions would result in a significant portion of areas like Boston being classified under MHW.

Ms. Fitch informed the commission that she had not received a response from the Department of Environmental Protection (DEP) yet. However, she urged the commission to consider the underlying intent of the regulations. She suggested that if the goal is to discourage the construction of oversized docks, perhaps the regulations should be revised to account for cases where a pier is attached to a groin. This could involve subtracting a certain distance from the measurement to better align with the spirit of the regulations.

The second discussion revolved around Bourne's consideration of construction within the eelgrass habitat. Currently, they have recommendations from both the Department of Environmental Protection (DEP) and the Division of Marine Fisheries (DMF). They aim to adopt a solution that minimizes the impact on the resource area. Bourne currently enforces to maintain a minimum height of 4.0 feet (48 inches) above Mean Low Water (MLW) if within 50 feet of any eelgrass, as stipulated by Bourne Wetland Regulations (BWR) 1.16(1)(h). Additionally, a setback of 25 feet is mandated from any eelgrass bed, but they are deliberating on how to handle crossings over the eelgrass under Bourne regulations. The discussion continued to the next meeting.

Meeting adjourned 8:03 PM.

Minutes typed by Amalia Amado, Conservation Secretary II.

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](mailto:kthut@townofbourne.com) or call the Town Administrator's Office at 508-759-0600 x1503.*