



## BOURNE CONSERVATION COMMISSION MEETING MINUTES APRIL 20th, 2023

Chm. Robert Gray called to order the meeting of the Conservation Commission at 6:30 p.m. conducted in person and via remote access on Thursday, April 20th, 2023, held in the Bourne Veterans Community Building, 239 Main Street Buzzards Bay, MA 02532. 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 Section 40 and pursuant to Article 3.7 of the Town of Bourne Wetlands Protection Bylaw. Chm. Gray asked if a member of the public wishes to comment they will first clearly state their full name for the record. Chm. Gray asked if anyone was recording at this time, other than the Conservation Department.

**Commission members present:** Chm. Gray, Rob Palumbo, Sarah Butler, Patrick Scanlan, Paul Szwed, Peter Holmes & Susan Weston

**Excused members:** Mr. Berman

**Professional staff in attendance:** Amalia Amado, Zac Basinski, Mike Borselli, Scott Adams

**Present by Zoom:** Peter Holmes & Sarah Butler

### Continuances

134 Wings Neck Road, Pocasset continued to May 4<sup>th</sup>, 2023

DEP File Number: SE7-2217

122 Wings Neck Road, Pocasset continued to May 4<sup>th</sup>, 2023

DEP File Number: SE7-2227

### Request for Determination

1. **File Number: CC-23-11, 4 Wenaumet Bluffs Drive, Pocasset c/o Kristin Seastrand, Proposed Project:** To extend gangway by 1.5', from 2.5' x 16' to 3.5' x 17.5', and extend floating dock by 2', from 4' x 20' to 4' x 22'. This project is located in an AE flood zone. The homeowner Kristin Seastrand represented the project and explained that the reason for the float extension is because her boat sits in the mud about 40% of the time depending on what's going on with the tide.

Agent comment: The Conservation Department secretary Ms. Amado read Ms. Fitch's report on the project. The Ch. 91 license # 7886, is a 99 year license, issued June 1999. One condition of the license is that motorized vessels shall have a draft no greater than that which provides minimum 1' clearance from the bottom at extreme low water.

- Going from 200SF of walkway/gangway/float to 211.75SF
- Not located in any priority habitat, ACEC or in historic or current eelgrass location based on the DEP eelgrass mapper. Located in the AE flood zone only.
- Neither the Cove Master nor the Director of DNR have an issue with the proposed length.
- Ms. Fitch had no concerns with the changes as proposed.

Motion made for a Negative Two Determination by Mr. Holmes seconded by Ms. Butler.

Roll call: Ms. Weston-abstained, Chm. Gray-yes, Mr. Palumbo-yes, Mr. Szwed-yes, Mr. Holmes-yes & Ms. Butler-yes. **Motion carried. 5-0-1.**

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### Abbreviated Notice of Resource Area Delineation

1. **DEP File Number: SE7-2235, 298 Barlows Landing Road, Pocasset, First Baptist Church c/o Advanced Engineering, Group P.C. Proposed Project:** The scope of work is to have all Conservation Commission jurisdictional resource areas delineated and approved on the subject parcel.

Scott Adams with Advanced Engineering Group represented the project with Christopher Lucas from Lucas Environmental who performed the delineation. Mr. Adams explained the unique components of the site which included a coastal bank and the railroad. Since 1953 the main salt marsh was hydraulically connected to the interior salt marsh. Approximately from 1960-1962, the Town took a drainage easement that came from Barlow's Landing Road and navigated to the edge of the existing salt marsh which then was supposed to discharge into the Pocasset River. Around 1970 they burned off the area near the railroad, so for a period of time it was no longer hydraulically connected to the salt marsh. Since then the Town has not maintained the infrastructure. The concrete pipe that has come through his client's property has broken in numerous locations. The water has bubbled out of the pipe and to fix it, the Town has created swales along the side of the pipe. One of the breaks occurs in the berm which is allowing a portion of water to traverse that berm that was originally 15-20 ft. tall. It is a 12" pipe that is partially submerged and partially broken, not acting at capacity. At the time it does not appear the intent was to be hydraulically connected because they would have installed a much larger pipe than 12 inches. The assessment they came up with is that the Pocasset River dies into the new manmade bank and into the rail area and does not continue into the interior salt marsh. They questioned what to do with the coastal bank. They have walked the site with the Ms. Fitch and they discussed the code of manmade fills.

Member comment: Chm. Gray mentioned the revised plan regarding the salt marsh revision to the highest high tide line. Mr. Adams said the elevation is 3.2 and for the most part matches the delineation, there is a discrepancy which Mr. Lucas will explain.

Agent comment: Ms. Amado read the report of Ms. Fitch who made a site visit with the wetland scientist and engineer on 4/12/23. The resource areas reviewed were: BVW, Salt Marsh, Coastal Bank, LSCSF, Isolated Vegetated Wetland, Riverfront Area, Land Under Ocean, and Land Containing Shellfish. Ms. Fitch agreed with the delineation in the field but seeing it on the plan, Ms. Fitch questioned why the salt marsh flags #33-39 do not follow the highest high tide line. This is an altered area, so it would be helpful to hear Chris's interpretation.

Mr. Lucas PWS, PSS, flagged the salt marsh and BVW which he suspected the discrepancy to be between the two was the culvert and the fresh water influx of drainage water through the property and the high tide is not getting to that part of the system.

No public comment.

Motion made to close by Mr. Holmes and seconded by Mr. Palumbo.

Ms. Weston-yes, Mr. Palumbo-yes, Mr. Szwed-yes, Ms. Butler-yes, Mr. Holmes-yes, Chm. Gray-yes. **Motion carried 6-0-0.**

The draft ORAD is accurately delineated and the resource areas are: BVW, Salt Marsh, Coastal Bank, LSCSF, Isolated Vegetated Wetland, Riverfront Area, Land Under Ocean, and Land Containing Shellfish.





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Motion made to move the draft to the final by Mr. Holmes seconded by Mr. Palumbo.  
Ms. Weston-yes, Mr. Palumbo-yes, Mr. Szwed-yes, Ms. Butler-yes, Mr. Holmes-yes, Chm. Gray-yes. **Motion carried 6-0-0.**

*Chm. Gray recused himself from the next (4) hearings and Vice Chm. Palumbo took over the reviews.*

### **Notice of Intent**

1. **DEP File Number: SE7-2239, 9 Penobscot Avenue, Bourne, Robert B Paull c/o Bracken Engineering, Inc. Proposed Project:** The raze and rebuild of a single-family dwelling with an attached garage, Title V septic upgrade with an I/A septic tank, landscaping, grading and associated utility work. This project is located in an AE flood zone.

Zac Basinski, PE with Bracken Engineering, Inc. represented the project and he described the resource areas. The homeowner is voluntarily putting in a micro-fast septic to improve the site and there are no grade changes. Mr. Basinski talked with the Ms. Fitch about putting in a stone recharge to collect roof runoff and he described it as a relatively flat site.

Review under the State Act only

Agent comment: Ms. Amado read Ms. Fitch's report: This is a small, flat, developed lot in a thickly settled residential neighborhood. The proposed project is an overall improvement. Same number of bedrooms, but now with an I/A septic system and a decrease in impervious surface (1465SF to 1120SF). The engineer submitted a revised plan to account for roof runoff. Ms. Fitch was happy to see the driveway will remain pervious and has no concerns with the project as proposed.

No member comments. No public comments.

Motion made by Ms. Weston and seconded by Mr. Holmes to close public hearing.  
Ms. Weston-yes, Mr. Szwed-yes, Mr. Holmes-yes, Ms. Butler-yes and Mr. Palumbo-yes. Chm. Gray-abstained. **Motion carried. 5-0-1.**

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, 10, 12, 15, 16, 18, 19, 27, and 28, and Special Conditions pursuant to the Bourne Wetland Protection By Law Article 3.7 including: 5, 6, 7, and 9. There are no additional special conditions.

Motion made to move the draft to the final by Ms. Weston seconded by Mr. Holmes.  
Ms. Weston-yes, Mr. Szwed-yes, Mr. Holmes-yes, Ms. Butler-yes and Mr. Palumbo-yes. Chm. Gray-abstained. **Motion carried. 5-0-1.**

2. **DEP File Number: SE7-2238, 225 Main Street, Buzzards Bay, Stephen E. White, Trustee c/o Bracken Engineering, Inc. Proposed Project:** The construction of a 10 foot by 14-foot addition to an existing structure for a total increase of 140 square feet in floor area. This project is in an AE flood zone.

Zac Basinski PE with Bracken Engineering, Inc. represented the proposed project. This project is located at Betty Ann's Ice Cream Shop on Main Street. They proposed to add a small addition to



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the side of the house which is in the AE flood zone only. This is not a substantial improvement so the rest of the structure will remain at the current elevation.

Review under the State Act only

Agent comment: Ms. Amado read Ms. Fitch's report: The project is in flood zone only, so no performance standards. This is a highly developed area of downtown. Ms. Fitch had no concerns with the project as proposed.

No member comments. No public comments.

Motion made by Susan and seconded by Peter to close public hearing.

Ms. Weston-yes, Mr. Szwed-yes, Mr. Holmes-yes, Ms. Butler-yes and Mr. Palumbo-yes. Chm Gray-abstained. **Motion carried. 5-0-1.**

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, 7, 10, 12, 15, 16, 18, 19, 27, and 28, and Special Conditions pursuant to the Bourne Wetland Protection By Law Article 3.7 including: 5, 6, and 7. There are no additional special conditions.

Motion made to move the draft to the final by Ms. Weston seconded by Mr. Holmes.

Ms. Weston-yes, Mr. Szwed-yes, Mr. Holmes-yes, Ms. Butler-yes and Mr. Palumbo-yes. Chm. Gray-abstained. **Motion carried. 5-0-1.**

3. **DEP File Number: SE7-2237, 14 Kennebec Ave, Pocasset, Karen M. Tucci c/o Bracken Engineering, Inc. Proposed Project:** To raze and rebuild a single-family dwelling with an attached garage, Title V septic upgrade with an I/A septic tank, landscaping, grading and associated utility work. This project is in an AE flood zone.

Zac Basinski, PE with Bracken Engineering, Inc. represented the project and he described the resource areas. The homeowner is proposing to raze and rebuild a new flood compliant structure, drywells and raze and remove the existing garage which will now be incorporated into the new structure. There will be very minimal grading changes. A new I/A septic system to improve water quality on site.

Review under the State Act only

Agent comment: Ms. Amado read Ms. Fitch's report: This is in AE 15' flood zone only. Greater than 100' from all other resource areas. The site does fall in an impaired watershed. It is a proposed raze and rebuild which adds 424 SF of buildings and another bedroom in design flow, yet the proposed nitrogen loading concentration is lower than existing. Building will have flood vents to meet FEMA building code and has proposed downspouts and runoff control. We have had a few abutters call and ask about the amount of trees proposed to come down due to the construction, which Zac says is approx. 7 trees. Ms. Fitch had no concerns with the project as proposed.

Public comment: Dwight Leuth, an abutter, had concerns over the location of the house to the boundary lines. Vice-chair Mr. Palumbo said that is not within the purview of the Conservation Commission and hope they can work something out with the neighbors. Mr. Basinski said they could condition the Order to meet on location with the Agent and if they do decide to change the location of the house, they could asked for a field change. Mr. Basinski also addressed another abutter question on the location of the septic.





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Motion made by Mr. Holmes and seconded by Ms. Butler to close the public hearing.  
Mr. Szwed-yes, Ms. Weston-yes, Mr. Holmes- yes, Mr. Palumbo-yes, Ms. Butler-yes and Chm. Gray-abstained. Motion carried 5-0-1.

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, 10, 12, 15, 16, 18, 19, 27, and 28, and Special Conditions pursuant to the Bourne Wetland Protection By Law Article 3.7 including: 5, 6, 7, and 9.

### ASC

- 1) Provide a final landscape plan.
- 2) Onsite inspection with the neighbors and Agent to review the final house location and septic components.

Motion made to move the draft to the final by Mr. Holmes seconded by Ms. Butler.  
Mr. Szwed-yes, Ms. Butler-yes, Mr. Szwed- yes, Mr. Palumbo-yes and Chm. Gray-abstained.  
**Motion carried 5-0-1.**

4. **DEP File Number: SE7-2232, 17 Scotch House Cove, Bourne, Lawrence R. Coen, Jr. c/o Bracken Engineering, Inc. Proposed Project:** To construct a permanent salt marsh boardwalk, with a seasonal pier, ramp and float. The work will take place within a V flood zone and on or within 100 ft. of other coastal wetland resource areas. **Continued from 4/06/2023.**

Zac Basinski, PE with Bracken Engineering, Inc. represented the project on behalf of the applicant. They have revised the plans and swapped to all aluminum 3ft. wide sections and the last terminal section will be 4ft. wide. This will allow them to make seasonal sections and then store them on to that 4 ft. section in a secured area off of the salt marsh. Mr. Basinski said the fiber glass flow through decking meets the light penetration requirements. They have lowered the structure to meet the DEP requirements of 1:1. They have rotated the structure so the impact area is in an existing disturbed area and for lateral access to the pier. They meet greater than 5ft. of separation and at low tide as well. Overall this design uses smaller piles which will have a lower impact to the resource area.

Agent comment: Ms. Amado read Ms. Fitch's report: A revised plan with alternative analysis and construction methodology have been submitted. Is the Commission comfortable with the construction methodology? The applicant proposes use of a barge at high tide and swamp maps. What will be used to drive the piles? A revised DMF letter was submitted April 19<sup>th</sup>. DMF recommends the 1.5:1 height to width ratio over the salt marsh. The revised plans today have a height: width ratio that is 1.5:1 for about half the walkway compared to the full walkway. She understands the applicant is trying to meet the requests of the abutters, but she would like to see the height to width ratio meet the DMF recommendations. The Bourne Conservation Commission should set a precedent for future walkways at 1.5:1 rather than 1:1.

Ms. Fitch was happy to see the walkway stairs moved to keep people from walking in the high marsh. Project was 10 degrees off N bearing and is now 7± degrees, which is an improvement. Lastly, is the Commission OK with just a note referencing float storage, or do they want to see a proposed location on the site plan?



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Mr. Basinski explained construction methodology of driving in the piles from the barge. The initial permanent construction method of the proposed boardwalk shall be constructed during the salt marsh dormant/ non-growing season. Piles will be installed by driving them using a small marine barge. The barge shall only be mobilized during periods of adequate water depth over the salt marsh. All framing and cross bracing work will be done by hand.

No Public comment.

ASC: Condition final float location with staff?

Motion made to close the public hearing by Ms. Butler and seconded by Mr. Szwed.  
Mr. Szwed-yes, Ms. Butler-yes, Mr. Holmes-yes, Mr. Palumbo-yes, Ms. Weston-yes and Chm. Gray-abstained. **Motion Carried. 5-0-1.**

**Continued to May 4<sup>th</sup> to finalize draft order.**

Chm. Gray returned as chair.

5. **DEP File Number: SE7-2230, 490 Scraggy Neck Road, Cataumet, William Murphy, NW Holdings, LLC c/o Cape & Islands Engineering, Inc. Proposed Project:** The installation of a proposed seasonal ramp and bottom-anchored float. The work will take place within a V flood zone and wetland resource areas. **Continued from 1/19/23, 2/2/23, and 2/16/23.**

Doug Schneider, PE from Cape & Islands Engineering, Inc. represented on behalf of the applicant. They opened the hearing tonight to hear the remaining recommendations of Ms. Fitch.

Agent comment: Ms. Amado read Ms. Fitch's report: There is 19' from eelgrass sprigs and the float. Although this spacing does not meet the recommended 25' from DMF, it does meet Forest Schenck's observation that eelgrass cannot grow within a few meters of a float. Additionally, the extremely rocky substrate around the float makes it unlikely that eelgrass will grow closer to the proposed float location. The float is over 80' from the dense area of eelgrass and is 4' from the ocean floor. Therefore, the project meets the local regulations as written. Ms. Fitch is fine with the report as is and does not recommend further delineations.

The DMF letter recommends the use of silt containment methods to prevent siltation in the marine environment during construction. Ms. Fitch asked Mark to provide us with the contractor's sediment control plan for when the conservation anchors are installed and a description of how it will meet DMF's recommendation. He said we can condition the project to include the silt boom or he can submit a revised plan. That is up to the Commission. If we close the hearing tonight, Ms. Fitch will put together a draft OOC for the next meeting.

Member Comment: The Commission discussed the float being anchored by 8 4x6 posts with the intent to be removed.

No public comments.

The Commission recommended an ASC: Condition sediment plan.

Motion made to close by Mr. Palumbo and seconded by Ms. Butler.





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Ms. Weston-yes, Mr. Palumbo-yes, Mr. Szwed-yes, Ms. Szwed-yes, Mr. Holmes-yes and Chm. Gray- yes. **Motion carried 6-0-0.**

**Continued to May 4<sup>th</sup> to finalize draft order.**

### Request to Amend Order of Conditions

1. **DEP File Number: SE7-2211, 198 North Road, Pocasset, John Sweeney c/o Falmouth Engineering, Inc. Proposed Project:** To Amend the Order of Conditions SE7-2211 to complete the repair of the existing stone groin using imported larger stones rather than the on-site stones as originally permitted by the Order of Conditions. This project is within an AE flood zone, V flood zone and within 100ft. of a wetland resource area.

Michael Borselli, PE of Falmouth Engineering, Inc. represented the applicant along with Gardens by Barbara Connolly, Inc. Over time some stones from the groin had come loose, the previous contractor working on the property under another open permit started working unpermitted on the groin without the engineer's knowledge. Last summer Falmouth Engineering came before the Commission with this new filing to permit the work in violation. They are here to amend the Order due to a specific special condition stating that all boulders for reconstruction must be used from the original groin. That has become problematic. Mr. Borselli explained that the toe stones and foot print of the groin have not changed but because of the age of the groin and the size of the stones on site, overtime with storms and sediment, the stones have become loose and rounded, making it structurally unsafe. They are now working with a new contractor who concluded that the stones available on site are not good for the outer armoring. They are seeking an amendment to allow more appropriate size stones to be brought onto the property. They are looking for stones that are more angular to interlock and incorporate the smaller stones on the inside and remove any leftover off site. They are hoping this method will allow this project to be done just once.

Agent comment: Ms. Amado read Ms. Fitch's report: Since the applicant did follow the special conditions as written and the groin failed, Ms. Fitch felt it was appropriate to allow a professional to add specific boulders that will withstand a large storm. Ms. Fitch still encourages the commission to condition this project to ensure that the final groin is no wider or longer than the previously existing structure.

The current additional conditions read as follows:

1. Dune restoration shall start no later than September 2022 ... does the Commission want to condition a new start date? The Commission recommended: Planting to occur in fall 2023 with the exception of the Dune grass to be planted in spring 2024.
2. Two monitoring reports are required annually for three years, one in late spring and one in fall. Reports must include a written description of existing conditions and photographs. Any vegetation that does not survive must be replaced. The report may vary on the first year.
3. Boulders to be used in the reconstruction must be from the original groin ... Does the Commission want to condition the boulder type/provider? The Commission recommended to differ to the experts on boulders.



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4. The as-built must include a PE and PLS stamp and be superimposed on existing plan of record, to scale.

Public comment: Tamara Mooney, Wing's Neck resident, had concerns about material being brought in and not using what is there. Ms. Mooney just wanted clarification from the engineer that a larger groin wasn't being built, she had difficulty hearing the beginning of the engineer's presentation. Mr. Borselli explained that they are not making the groin larger or wider. The intent is to make the cap and amour more resilient by using larger stones to make sure it stays in place. Keith Ciampa, an abutter to the property, said the groin had been dismantled and stated rebuilding it correctly seems like the right thing to do especially if there a big storm. Mr. Ciampa wanted to make sure that the work on the jetty wouldn't change the neighboring property and the intent of the groin does not change.

Motion made to close the public hearing by Mr. Palumbo seconded by Ms. Weston.  
Ms. Weston-yes, Mr. Palumbo-yes, Mr. Szwed-yes, Ms. Butler-yes, Mr. Holmes-yes and Chm. Gray-yes **Motion carried. 6-0-0.**

**Continued to May 4<sup>th</sup> so Ms. Fitch can finalize the draft order.**

### **Request for Certificate of Compliance**

1. **DEP File Number: SE7-2035, 43 South Road, Pocasset, Julia Morton c/o JC Engineering, Inc. Proposed Project:** Certificate of compliance requested for Order of Conditions issued on 10/12/2018. To Raze and reconstruct an existing dwelling and septic system installation within an AE flood zone and within 100 feet of a wetland resource area.

Based on the Agent's site visit on 4/19/2023, she recommended issuance of the COC as the minor variations outlined in the COC request are insignificant.

Motion made by Mr. Palumbo seconded by Ms. Weston to issue COC.  
Ms. Weston-yes, Mr. Palumbo-yes, Mr. Szwed-yes, Ms. Butler-yes, Mr. Holmes-yes and Chm. Gray-yes **Motion carried. 6-0-0.**

2. **DEP File Number: CCNOI-01-71, Off Shaker Drive Map. 31 -Former Lot 28, Bourne John Curry on behalf of C & D Development c/o Bracken Engineering, Inc. Proposed Project:** Certificate of compliance requested for Order of Conditions issued on 6/05/2001. The construction of a roadway for the Quaker Lane Subdivision.

Bracken Engineering has been working on this COC for quite a while. There is a special condition in the OOC that references project modifications discussed during the public hearing on 8/22/2001, including natural buffers and a wildlife corridor. Based on site visit on 4/18/23 and the photos submitted by BEI, this special condition has been met. Ms. Fitch recommend issuance of the COC.

Motion made by Mr. Palumbo seconded by Ms. Weston to issue COC.  
Ms. Weston-yes, Mr. Palumbo-yes, Mr. Szwed-yes, Ms. Butler-yes, Mr. Holmes-yes and Chm. Gray-yes **Motion carried. 6-0-0.**





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### Discussion and possible vote regarding hybrid meeting option.

Due to lack of technical support at this time and the possibility of having to postpone an ongoing meeting on the account of technical difficulties, the Commission feels they should return to in-person only. Motion made to discontinue hybrid.

Ms. Weston-yes, Mr. Palumbo-yes, Mr. Szwed-yes, Chm. Gray-yes, Ms. Butler-yes, Mr. Scanlan-yes and Mr. Holmes-abstained. **Motion carried. 6-0-1.**

### Approve 02.16.23 meeting minutes.

Motion made by Mr. Holmes and seconded by Mr. Palumbo to accept the minutes as written.

Ms. Weston-abstained, Mr. Palumbo-yes, Mr. Szwed-yes, Chm. Gray-yes, Ms. Butler-yes, Mr. Scanlan-yes and Mr. Holmes-yes. **Motion carried. 6-0-1.**

### Vote to excuse absent members.

Motion made by Mr. Palumbo seconded by Ms. Weston to excuse absent members.

Ms. Weston-yes, Mr. Palumbo-yes, Mr. Szwed-yes, Ms. Butler-yes, Mr. Holmes-yes and Chm. Gray-yes **Motion carried. 6-0-0.**

Adjourned. 8:47 PM

Minutes edited by Stephanie Fitch- Conservation Agent

Audio recorded & Minutes typed by Amalia Amado- Conservation Secretary II

Recorded by Zoom platform