

**Bourne Conservation Commission
Public Meeting Minutes
September 21, 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: Vice Chair Rob Palumbo (remote), Joseph Soares, Jr., Sarah Butler (remote), Susan Weston, Melvin Peter Holmes, and Paul Szwed.

Excused Members: Chm. Bob Gray and Greg Berman.

Professional Staff in Attendance: Amalia Amado, Conservation Department.

Peter Holmes called to order the meeting of the Conservation Commission at 6:30 PM, conducted in person on Thursday, September 21st, 2023, and held in the Bourne Veterans Community Building, 239 Main Street, Buzzards Bay, MA 02532, and held virtually by Zoom. Mr. Holmes 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. Mr. Holmes said that they follow a 5-5-5 rule. Mr. Holmes said that if a member of the public wishes to comment they will first clearly state their full name for the record. Mr. Holmes asked if anyone was recording at this time, other than the Conservation Department.

REQUEST FOR DETERMINATION

- 1.) **Request for Determination File Number: CC-23-28, 55 Maryland Ave., Monument Beach, Bruce Tofias c/o Cape and Islands Engineering, Inc.** The proposed project includes the upgrade of the existing septic system located within 100' of a wetland resource area.

Mark Dibb of Cape and Islands Engineering explained the request of the applicant to upgrade their septic system. He said that the resource areas onsite are a Back River and coastal dune. The house has been owned by the family since the 1950's and being served by a single cesspool.

Amalia Amado read aloud the report of Chuck Katuska. She said that he reported that the engineered elements of this proposal (replacement of an existing deficient septic system with a new, denitrifying system) appear to be as environmentally sound as is feasible, given site conditions and limitations. The new septic system is to be located farther from protected wetland resource areas, and the proposed septic system is designed to reduce nitrogen loading to this sensitive embayment. With the exception of a small amount of clearing of exiting vegetation within Land Subject to Storm Flowage (approx. 100 sq. ft.), all work is within the 50' and 100' buffer zones to the top of the Coastal Bank onsite.

Ms. Amado said that Mr. Katuska did have some questions. The first was if the clearing of 450 sq. ft. of existing dense vegetation around the southeastern property line is necessary for construction, or access to the work area. Mr. Dibb said that it is for both.

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Mr. Katuska's second question was regarding a tree and Mr. Dibb said that they are trying to preserve the tree.

Paul Szwed asked what was coming out regarding the clearing. Mr. Dibb said there are no trees, as they are mostly vines and nothing significant, and will be an improvement.

There was some more discussion about a tree possibly having to be removed.

Motion made for a Negative Two Determination, by Vice Chr. Palumbo, seconded by Ms. Butler. Roll Call Vote: Vice Chr. Palumbo - yes, Ms. Butler - yes, Mr. Szwed - yes, Ms. Weston - yes and Mr. Holmes - yes. **Motion Carried. 5-0-0.**

- 2.) **Request for Determination File Number: CC-23-19, 18 Windsor Road, Cataumet, John LoMedico.** Post-facto filing of an upgrade to an existing boathouse. This project is located in a VE flood zone and within coastal wetland resource areas. **Continued from 9/07/2023.**

Continued to October 5th, 2023, by request of the applicant.

NOTICE OF INTENT

- 1.) **Notice of Intent: DEP File Number: SE7-2258, Parking lot off 0 Sagamore Road, Sagamore Beach, Town of Bourne c/o BSC Group, Inc.** The proposed project at the site involves upgrading the parking lot and the stormwater management system, as well as repairing the existing emergency access ramp, walkover stairway, and beach nourishment. The project is located on or within 100 ft. of coastal wetland resource areas and in a V flood zone. **Continued from 9/07/2023.**

Continued to October 5th, 2023.

- 2.) **Notice of Intent: DEP File Number: SE7-2257, Parking lot off 280 Standish Road, Sagamore Beach, Town of Bourne c/o BSC Group, Inc.** The proposed project at the site involves upgrading the parking lot and its stormwater management system, as well as repairing the existing emergency access ramp, walkover stairway, and beach nourishment. The project is located on or within 100 ft. of coastal wetland resource areas and in a V flood zone. **Continued from 9/07/2023.**

Continued to October 5th, 2023.

- 3.) **Notice of Intent: DEP File Number: SE7-2256, 60 Red Brook Harbor Road, Pocasset, Karen Fish-Will c/o Bracken Engineering, Inc.** To raze existing structures and rebuild a single-family dwelling, garage, pool, patio, and pool house. Installation of a Title V septic system with Innovative/Alternative technology, landscaping, grading, and associated utility work. The work will take place within a V flood zone and 100 ft. of wetland resource areas. **Continued from 9/07/2023.**

REV. plan dated 9/12/23.

Zachary Basinski of Bracken Engineering talked about the process in which they have gone through to get to the revised plan.

Mr. Basinski asked that if they do not have a planting plan in time, that the Commission please review the revised plan and vote on the project with the information that is submitted and condition the approval that as a final planting plan is to be submitted, reviewed, and approved by staff prior to the installation of any plantings.

Ms. Amado said that Mr. Katuska had asked for more specific information on the amount and character of buffer zone impact areas. He said that even if it is the Commission's general practice to allow the Agent to finalize the mitigation planting plan after approval, he believes that the Commissioners themselves should have a clear understanding of the impacts they're permitting, and the sufficiency of the mitigation proposed.

Ms. Amado said that Mr. Basinski earlier answered Mr. Katuska's comments by saying that the requested disturbance calculations for each buffer zone have been added to the plan and show that there is an overall net reduction area of historic lawn area.

Mr. Szwed said that he liked the modification and Vice Chr. Palumbo said that Mr. Basinski did what the Commission asked, and Stevie can have the final say with them before they do it.

Motion to close the public hearing by Ms. Weston and seconded by Vice Chr. Palumbo.

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, 14 15, 18, 19, 21, 27, 28 and 29 and special conditions pursuant to the Bourne Wetland Protection By Law Article 3.7 including: 2, 4, 5, 6, 7, and 9. Additional special conditions are as follows:

ASC-1) Pool water must be drained into the approved drywell. No pool water can be discharged into any wetland resource areas.

ASC-2) Mitigation planting and annual report during construction.

Motion to move the draft to the final by Ms. Weston and seconded by Mr. Szwed. Roll Call Vote: Vice Chr. Palumbo - yes, Ms. Butler - yes, Mr. Szwed - yes, Ms. Weston - yes and Mr. Holmes - yes. **Motion Carried. 5-0-0**

4.) Notice of Intent: DEP File Number: SE7-2260, 80 Megansett Road, Cataumet, Bishop-Megansett Family Limited Partnership c/o Cape and Islands Engineering, Inc. Proposed seasonal installation and maintenance of a timber pier with an aluminum ramp and a pile-supported 8 x 12- 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 9/07/2023.**

Ms. Amado showed the revised plan on the screen that the Zoom Meeting was being shown. She said that they are still waiting on the DMF letter. She also read a list of concerns from Stevie about the current design:

1. Whole footprint is in land containing shellfish (oysters).
2. 3 springs of eelgrass found within 50 feet.

3. Materials listed include copper chromated arsenic – DEP recommends not using CCA for human health concerns.
4. Construction process missing for saltmarsh work.
5. Width clearance needs to be brought down to 40", so maximum footprint is 4 feet.
6. Need more details for storage location.
7. Need DMF letter.
8. Abutter's float is considered a mooring and is within 100 feet.
9. Whose mooring is 36' feet away? Has it been relocated?
10. She believes the narrowest portion of the waterway impacted by the dock is 145' and the dock sticks out 36' which is greater than 1/5.

Ms. Amado said that Ms. Fitch's two main things were the mooring issue and the 1/5 across the waterway.

Mark Dibb talked about the project at 80 Megansett Road. He said as noted in Stevie's report, that there were some oysters found in the shellfish study, so they plan to meet the height and depth requirements for that area. He said that the amount of shellfish found does not meet the standards for the bylaw for either recreational or commercial value. He said that also per the eelgrass and shellfish report, there was one sprig of eelgrass within 50 feet, so they are providing float stops to meet the requirement.

Mr. Dibb said that they strongly disagree with the 2 major components of Stevie's letter. Regarding the pier ramp and float, he said that because it has a mooring license associated with the float, that it is a mooring. He said that under no definitions in either the Bourne bylaws or the National Resource regulations does it make that comparison. He said that it is a mooring and should be 100 feet away. He said that he has supplied some very detailed supplemental information with the definitions and reasons.

Mr. Dibb continued to say that they are trying to meet what the town bylaw says. Mr. Dibb said that they feel that they meet the requirements of the one fifth. He also talked about recreational value.

Mr. Szwed asked about the comments regarding the setback distance of the pier being a mooring. Mr. Dibb explained the regulation, and he said that the definitions do not make the determination. There was some more discussion on definitions and interpretations.

Bob Bishop said that the mooring will probably be moved into the larger harbor.

Vice Chr. Palumbo said that he has looked over this request very carefully and he has read the comments from the public and he does not see any navigational problems. He said that the language in the bylaw may need to be clarified before they approve this project.

John York read aloud Mass General Law Chapter 91, section 10A. He said that the authority on which the permit was granted calls it a mooring. He said that he is concerned about the accumulative impact of piers. Mr. York voiced all his concerns, and he said that the rules need to be followed. There was more discussion about the

geometry of the measuring, the definitions, the navigation in the area, and about being fair to all requests across the board.

Continued to October 19th, 2023.

REQUEST FOR CERTIFICATE OF COMPLIANCE

1.) DEP File Number: SE7-2006, 430 Wing's Neck Road (Lot 1), Pocasset, Bruce and Mercedes Rodman c/o Down Cape Engineering, Inc. Certificate of Compliance requested for Order of Conditions issued on April 17, 2018. To construct a pool, patio, landscaped pathway, coastal stairway, and perform vista pruning within a V flood zone, and within 100 feet of a wetland resource area.

Ms. Amado said that Chuck Katuska did a site inspection on September 19th, and he recommends issuance of the COC and wanted to comment that this Order of Conditions does have two special conditions that outlive the Order and to remain in effect for this site in perpetuity, and they are:

- Special Condition 6, referencing a prohibition of the construction of any coastal engineering structure on any eroding bank at this site.
- Special Condition 3, requiring the maintenance of a 50'-wide zone of undisturbed vegetation between any area altered at this site in the future and the innermost boundary the protected resource areas onsite.

Motion to grant the COC, in perpetuity, by Vice Chr. Palumbo and seconded by Ms. Weston. Roll Call Vote: Vice Chr. Palumbo - yes, Ms. Butler - yes, Mr. Szwed - yes, Ms. Weston - yes and Mr. Holmes - yes. **Motion Carried. 5-0-0**

2.) DEP File Number: SE7-2138, 35 Pasture Road, Cataumet, Paul J. and Kathrin J. Gaffney c/o Cape and Islands Engineering, Inc. Certificate of Compliance requested for Order of Conditions issued on 05/03/21. The demolition and rebuild of a single-family home within a V flood zone, AE Flood Zone and within 100 feet of a wetland resource area.

Ms. Amado said that Chuck Katuska did a site inspection on September 19th, and he recommends issuance.

Motion to issue the certificate made by Mr. Palumbo and seconded by Ms. Weston. Roll Call Vote: Vice Chr. Palumbo - yes, Ms. Butler - yes, Mr. Szwed - yes, Ms. Weston - yes and Mr. Holmes - yes. **Motion Carried. 5-0-0**

➤ Approve minutes 8/03/2023, 8/17/2023 & 8/31/2023.

Motion made to accept and release the minutes of August 3rd, August 17th, and August 31st, 2023, by Mr. Szwed and seconded by Ms. Weston. Roll Call Vote: Vice Chr.

Palumbo - yes, Ms. Butler - yes, Mr. Szwed - yes, Ms. Weston - yes and Mr. Holmes - yes. **Motion Carried. 5-0-0**

- Vote to accept letter of support for the Town of Bourne Pollinator Pathways and Green Stormwater Infrastructure.

Mr. Holmes said that he spoke at the Preservation Committee meeting the night before this meeting, and he thinks that the Town of Bourne Pollinator Pathways project is an excellent project. He said the project will take place over three years and the funding is \$378,000.00. He said he thinks the commission should support it.

Motion made to allow the Chairman to sign a letter of support for the Town of Bourne Pollinator Pathways and Green Stormwater Infrastructure, by Ms. Weston and seconded by Mr. Szwed. Roll Call Vote: Vice Chr. Palumbo - yes, Ms. Butler - yes, Mr. Szwed - yes, Ms. Weston - yes and Mr. Holmes - yes. **Motion Carried. 5-0-0**

- Report of the Conservation Department.

Ms. Amado said that she has two violation updates. In October of 2021, 9 Pleasure Point in Sagamore had originally filled in an intermittent stream ditch with filter fabric and stone. She said that it has been cleaned out and returned to its previous condition.

Ms. Amado said that the other one is at 99 Phillips Road. She said that they had a boardwalk across town property and Ms. Fitch had them remove it and it has now since been removed. She said that they have a closing tomorrow, and at the August 3rd meeting, COC was not issued. She said that the buyer has agreed to go through with the sale, but they still must do the American beachgrass planting that was required by Ms. Fitch. She said that another site inspection will be done in the Spring, and Ms. Fitch recommended that need to know that the best time to plant the beachgrass is November through early Spring. The owner and the buyer know about this. It was decided by the Commission that they will not close the order at this time.

Ms. Amado said that she has received a few calls about driveways. She understands that driveway is an exempt activity in the Wetlands Protection Act granted that it's more than 50 feet from mean annual high water or bordering vegetative wetland. She wanted clarification of this from the Commission and she showed an example from Hideaway Village at 42 Maynard Lane. There was some discussion about existing driveway work. It was decided they would save this question until Chairman Gray was back.

- Vote to excuse absent members.

Motion made to excuse absent members from the meeting by Mr. Palumbo and seconded by Mr. Szwed. Roll Call Vote: Vice Chr. Palumbo - yes, Ms. Butler - yes, Mr. Szwed - yes, Ms. Weston - yes and Mr. Holmes - yes. **Motion Carried. 5-0-0**

- Adjourn

Motion made to close the hearing by Mr. Szwed and seconded by Ms. Weston. Roll Call Vote: Vice Chr. Palumbo - yes, Ms. Butler - yes, Mr. Szwed - yes, Ms. Weston - yes and Mr. Holmes - yes. **Motion Carried. 5-0-0**

The meeting was adjourned at 7:53 PM.

Meeting minutes typed by – Kim Johnson, Recording 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.