

CONSERVATION COMMISSION MEETING MINUTES

Thursday, June 19, 2014 ~ 7 pm ~ Lower Conference Room, Bourne Town Hall

Members present: Chm. Bob Gray, V. Chm. Martha Craig Rheinhardt, Peter Holmes, Betsy Kiebala, Paul Lelito, Rob Palumbo and Susan Weston. Alternate member Thomas Ligor

Chm. Gray called meeting to order at 7:00 pm and explained the Commission's procedure pursuant to the Wetland Protection Act M.G.L. c. 131, s. 40 and the Bourne Wetland Protection Bylaw Article 3.7.

Note: Chm. Gray addresses the audience in regards to recording a public hearing. If anyone wishes to record a public meeting, they are free to do so, however, it must be known by the Board and the public. All cell phones are to be placed on vibrate or turned off during the meeting.

Michael Rausch recording tonight from Bourne Enterprise.

7:00) Requests for Determination of Applicability:

- | | | | |
|----|--------------------------|--|----------------------|
| 1) | <u>Applicant:</u> | Gary & Marcia Puryear | File Number: CC14-26 |
| | <u>Representative:</u> | Barbara Frappier, Warwick & Associates, Inc. | |
| | <u>Project Address:</u> | 83 Gilder Road, Gray Gables | |
| | <u>Proposed Project:</u> | Construct an addition and garage including all associated grading, landscaping, and appurtenances within an AE Flood Zone and within 100 feet of a Wetland Resource Area | |

Barbara Frappier representing –Applicant seeks a free-standing one story garage with room above and a carport attached to the house. The carport will be on piers due to the proximity of the septic system and the garage will be free standing. All work proposed is within 100 feet of the coastal dune and AE flood zone.

No board comments.

Brendan Mullaney – proposed project is near the public beach in Gray Gables. This is a relative flat lot, which has a clear distinct edge from the lawn to the dune and associated vegetation towards the beach. The project is greater than 50FT from the resource area as required by the Bylaw. Hay bales will be used to protect from erosion and no major concerns with the project.

Weston – asked about going to the Board of Health. Ms. Frappier stated the project was designed after receiving comments from the Health Department.

No public comment.

Holmes moved and seconded Kiebala to approve under a Negative Two Determination. Unanimous vote.

- 2) Applicant: Nubar Hagopian File Number: CC14-27
 Representative: Barbara Frappier, Warwick & Associates, Inc.
 Project Address: 18 Scotch House Road, Cataumet
 Proposed Project: Relocate driveway, install fence, and remove stone retaining wall
 within AE and VE Flood Zones and within 100 feet of a Wetland
 Resource Area

Ms. Frappier representing – RDA filed for the purposes of making the lot more accessible and open a beach way for use by area residents. Applicant seeks to relocate driveway entirely on his lot and to remove section of wall and to install a stockade fence along both sides of the beach way. There is some fencing that is on the other side and doesn't belong to the applicant.

Brendan Mullaney – the proposed modifications are to change the alignment of the driveway, and subsequently realign the right-of-way for access of the neighborhood residents who have rights over the property. This is allowable use in existing landscaped areas. Applicant is exempt from MESA review. The pool was constructed and may not be in compliance as commission originally approved. Extends 6 FT from location permitted originally. This is a separate issue and not part of this application.

No board comments. No public comments.

Holmes moved and seconded by Weston to approve provision with the fence to be raised 4 inches off the ground to accomodate box turtles. Vote 6-1. No abstentions.

- 3) Applicant: Paul Macuch File Number: CC14-28
 Representative: SAME
 Project Address: 18 Wright Lane, Buzzards Bay
 Proposed Project: Construct a porch within a VE Flood Zone

Mr. Macuch representing – seeks to adding an open farmers porch on the left side. It will have rails along the edge of it.

Brendan Mullaney – this is a flat, developed lot in the velocity flood zone, no other jurisdictional resource areas within 100 feet of the proposed project. No other concerns with the project.

No board comments. No public comment.

Lelito moved and seconded by Kiebala a Negative Two Determination. Unanimous vote.

7:10) Notices of Intent:

- 1) Applicant: Kevin O’Neil DEP File Number: SE7-1900
 Representative: Bracken Engineering, Inc.
 Project Address: 14 Briarwood Lane, Monument Beach
 Proposed Project: Reconstruct existing porch and patio, install field drain, and
 regrade and resurface driveway within AE and VE Flood Zones and
 within 100 feet of a Wetland Resource Area

Chm. Gray recused himself from discussion and vote. Martha Craig Rheinhardt will chair the meeting.

Mr. Zac Basinski representing – applicant seeks to remove deck and reconstruct and extend- new deck will connect to the existing deck on the east side and add steps. Applicant also proposing to install a pervious patio and will add blue stone walking paths outside of the deck. Add small field drain to catch run off from the driveway. Applicant seeks to re-grade the driveway with new gravel.

Brendan Mullaney – technically there is a coastal bank already disturbed, seems to have been created when someone dug a bowl shaped area out of the lawn. This likely could have been handled with a request, but the Notice was filed in case there was need to address the coastal bank issue. Relatively simple project and no major concerns.

No board comments. No public comment.

Lelito moved and seconded by Palumbo to close the public hearing. Unanimous vote.

Brendan Mullaney – Draft Order of Conditions: General Conditions pursuant to MGL, Chapter 131, Section 140 and Special Conditions 1,2,3,5,9, 12,13,16-24 and Special Conditions 7,8,9 to the bylaw and Special Conditions 20, 24 to continue in perpetuity.

Holmes moved and seconded by Lelito to move Draft Order of Conditions to Final Order of Conditions. Unanimous vote.

Request to Amend Order of Conditions:

- 1) Applicant: Bruce & Kerri Wenzel DEP File Number: SE7-1722
 Representative: SAME
 Project Address: 98 Tahanto Road, Pocasset
 Proposed Project: Reconstruct and maintain existing licensed concrete seawall
 within an AE Flood Zone and within 100’ of a Wetland Resource
 Area

Mr. Wenzel representing – applicant seeks to pull the old concrete wall out – work will be done by Gallo Construction. Bay Colony Concrete will construct new wall using same footprint and

same measurements. The stairway is not useable and the water is getting behind and undermining it.

Brendan Mullaney – this amendment is subsequent to the original file which was for Chapter 91 licensing. Wall will be put back in same footprint – it is in serious disrepair.

Mr. Wenzel - All work will be done from the upland and the plan is to pour concrete.

Brendan Mullaney – the order of conditions is current. The wall is in bad shape per photographs and was licensed a couple years and to be replaced in kind.

Mr. Mulvey – asked what will be done different. Applicant said it will be re-rod every 8". Applicant will supply weep holes to relieve pressure.

Weston and Lelito – applicant should have filed a Notice of Intent for a different purpose. Lelito said if amended they should have an engineered plan so it doesn't happen again. It is in best interest to have done right.

Mr. Wenzel – the wall was originally damaged when a crane was parked on it to remove boats after a storm – wall suffered serious damage.

Lelito – asked if it failed because of the crane. The applicant stated if the board saw the size of boats that were being moved, the board would have probably shut the project down.

Brendan Mullaney – relatively simple construction project. Filter fabric can be added and pvc piping to relieve hydraulic pressure.

Lelito moved and seconded by Weston to continue hearing to the 7/10/14 for applicant to submit engineering plan. Unanimous vote.

Other Business:

► Violation – 13A River Road, File SE7-1897, excessive clearing, removal of trees & vegetation (Discussion and possible vote)

Chm. Gray – large amount of trees and vegetation was stripped from this lot. There was discussion at the original hearing about what was to occur in the view shed and it said "selective clearing." Brendan Mullaney said applicant met with him to determine trees to be removed. There were a couple of trees that were close to the project. He received a call that excessive vegetation was cleared. He conducted a site visit and found the area was clear cut of almost everything to the coast bank and beyond. All scrub vegetation was cleared and almost all of cedar and pine trees were cleared. The applicant Vincent Michienzi was called and apologized and stated the contractor that was hired went above and beyond what he was hired

to do. He stated the contractor thought top of coastal bank, or TOCB on stakes, meant “to be cut”.

Applicant re-planted a portion of the coastal bank; hay bales and silt fences not installed correctly. Replacement plants include rugosa rose, bayberry, winter berry, beach plum, and clethra. Nothing was submitted.

Brendan Mullaney – said the Order of Conditions was explicit about what could be removed but this violation went well beyond the limit of work and went beyond the top of the coastal bank. He feels an enforcement order should be issued with specific requirement for restoration or other restoration as the board sees fit. Restoration already was done does not come close to what was there. Regardless of how it happened, the work was done blindly.

Chm. Gray – there was a presentation to the board of what was going to be done. There was a view shed with selective clearing and made sure in the Order of Conditions for an on-site meeting with Brendan Mullaney to discuss specifics. Brendan Mullaney read the specific portion of the order of conditions into the record.

Chm. Gray – he would request an Enforcement Order and present a Restoration Plan; if applicant follows through all is well and good. If he doesn’t, we can revoke the order of conditions and the applicant cannot build a house. It appears he made some effort with some of the plantings to restore what was taken out. He is concerned there is no water that he could see, so we have another hot day and it will be July soon and the plants won’t survive the hot weather.

Craig Rheinhardt – add a condition to make sure the plantings survive. Chm. Gray said you should treat restoration planting the same the DEP would be looking at it if it was a wetland application. He would like to see some monitoring reports and a two-year monitoring period. In future actions, when the board sees a view shed, maybe include a plan that shows all existing trees and on same plan show which are to be removed; those get marked in the field and approved through the hearing process.

Chm. Gray – suggested no construction activities allowed until restoration project is approved by the board.

Weston moved and seconded by Kiebala to issue an Enforcement Order and to include:

The property owner shall take the following actions to prevent further violations of the Act and Town of Bourne Wetland Protection Bylaw:

- 1) Erosion controls, consisting at a minimum of a row of staked straw bales and silt fencing, must be installed at the base of the Coastal Bank and maintained until the entire area is restored and re-vegetated.
- 2) A detailed restoration plan, prepared by a competent professional, must be prepared and submitted to the Conservation Commission for review and approval.

- The Commission will make specific requirements for the restoration upon review of the plan.
- 3) No other work that was approved by the Order of Conditions (MA DEP File SE7-1897), including the construction of any structures, is allowed until an approved restoration plan is substantially completed. Specific requirements defining completion of the restoration will be made by the Commission during review of the restoration plan.
 - 4) The restoration plan must be submitted within 30 days of receipt of the Enforcement Order by the project proponent.

Unanimous vote.

Brendan Mullaney – to send copy of Enforcement Order to Atty. Troy, Building Inspector, DEP and TA Guerino.

► Vote – Excuse Absent Members, if necessary
There is a full board present tonight.

► Approval of Minutes – May 15, 2014

Lelito moved and seconded by Craig Rheinhardt to approve minutes of 5/15/14 as submitted. Unanimous vote. Weston abstained.

- Any other business that may legally come before the Commission
- Report of the Conservation Agent
 - Questions and Answers re: MGL Chapter 131 §40 and 310 CMR 10.00-10.99
 - Questions and Answers re: Town of Bourne Wetland Protection Bylaw (Article 3.7) and BWR 1.00-1.16

Adjourn

Lelito moved and seconded by Kiebala to adjourn. Meeting adjourned at 8:15 pm. Unanimous vote.

Respectfully submitted - Lisa Groezinger, sec.