

CONSERVATION COMMISSION MINUTES

Thursday, May 1, 2014 ~ 7 pm ~ Lower Conference Room, Bourne Town Hall

Members present: Chm. Bob Gray, V. Chm. Martha Craig Rheinhardt, Peter Holmes, Betsy Kiebala, Rob Palumbo and Susan Weston

Members excused: Paul Lelito and Alternate member Thomas Ligor

Note this meeting is being televised and recorded. If anyone in the audience is recording or videotaping, they need to acknowledge such at this time – Michael Rausch recording tonight.

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.

7:00) Requests for Determination of Applicability:

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| 1) | <u>Applicant:</u> | John and Kathryn Pearce | <u>File Number:</u> CC14-14 |
| | <u>Representative:</u> | Holmes & McGrath, Inc. | |
| | <u>Project Address:</u> | 75 Winsor Road, Cataumet | |
| | <u>Proposed Project:</u> | License the existing seawalls, groins and fill within a VE Flood Zone and within 100 feet of a Wetland Resource Area | |

Tim Santos, Holmes & McGrath representing – applicant seeks to license the existing seawalls, groins and fill that are currently not licensed. Plans show historic mean high water and various structures on property.

No board comment.

Brendan Mullaney – explained this is a procedural matter. No work proposed – all structures have been in existence for decades. DEP Waterways division, who issues Chapter 91 licenses, requires an approval from local ConCom.

No public comment.

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

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| 2) | <u>Applicant:</u> | Philip and Perian Poirier | <u>File Number:</u> CC14-15 |
| | <u>Representative:</u> | SAME | |
| | <u>Project Address:</u> | 10 Jefferson Road, Gray Gables | |

Proposed Project: Construct a garage and porch within 100 feet of a Wetland Resource Area

Mr. Poirer representing – seeking to construct a 16’x22’ garage and porch on the front of the house.

No board comments.

Brendan Mullaney – simple addition / deck, no concerns with the project. The proposed work is on the street side of property and no closer to the wetlands than currently exists.

No public comments.

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

3) **Applicant:** B. Paul Bushueff, Jr. **File Number:** CC14-16
Representative: SAME
Project Address: 9 Agawam Point Road, Gray Gables
Proposed Project: Install gas service within an AE Flood Zone and within 100 feet of a Wetland Resource Area

Applicant is unable to attend meeting tonight, but did hand in abutter notifications.

Brendan Mullaney – this is a basic gas line installation with minimal disturbances. The proposed work can be accomplished in one day. No concerns with the project.

No public comment.

Holmes moved and seconded by Weston a Negative Two Determination. Unanimous vote.

Notice of Intent:

1) **Applicant:** Mass. Maritime Academy **DEP File Number:** SE7-1894
Representative: Baxter Nye Engineering & Surveying
Project Address: 101 Academy Drive, Buzzards Bay
Proposed Project: Construct an addition to existing dining facility, including new patio, stormwater management facility, sidewalks, and landscaping within AE and VE Flood Zones and within 100 feet of a Wetland Resource Area
Hearing Under State Act Only

John Lavelle, Baxter Nye Engineering & Surveying representing – The MMA is seeking to construct an addition to the existing dining facility, including a new patio, stormwater, management facility, sidewalks and landscaping. We have submitted a stormwater report and all associated documentation with the NOI.

Brendan Mullaney – most of the proposed work is within the Flood Zone only. The MMA is not subject to the Town Bylaws. He is impressed with the redevelopment of MMA. No concerns with the project.

No board comment. No public comment.

Due to an ENF filing that is currently being reviewed, the applicant requested to keep the hearing open.

Palumbo moved and seconded by Holmes to continue hearing to 6/19/14 at the applicant's request. Unanimous vote.

2)	<u>Applicant:</u>	Richard & Janis Shepherd	<u>DEP File Number:</u> SE7-1891
	<u>Representative:</u>	Bracken Engineering, Inc.	
	<u>Project Address:</u>	14 Cannonicus Avenue, Pocasset	
	<u>Proposed Project:</u>	Raze and rebuild existing single family dwelling including all site work, utilities, and appurtenances within an AE Flood Zone	
		Hearing Under State Act Only	
		Continued from April 17, 2014	

Chm. Gray recused himself from discussion and vote as he does work with Bracken Engineering. He turned the meeting over to V. Chm. Craig Rheinhardt.

Zac Basinski, Bracken Engineering representing – applicant seeks to raze and rebuild existing single-family dwelling including all site work, utilities, and appurtenances within an AE Flood Zone. This application is under the State Act Only. An old cesspool will be removed and a new Title V will be installed per the Board of Health.

No board comment.

Brendan Mullaney – the proposed work is on a relatively flat lot. Proposed work would be an improvement over existing conditions. No other concerns with the project. Natural Heritage has 30 days to comment. The board can put a condition that any restrictions are incorporated into the order.

No public comment.

Holmes 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 1-6,9,12,13, 16-24, and ASC-1) Any conditions or requirements for this project, as determined by the Natural Heritage and Endangered Species

Program through the MESA review process, are automatically incorporated into this Order of Conditions.

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

- 3) **Applicant:** David W. Crane Living Trust **DEP File Number:** SE7-1892
 Representative: Bracken Engineering, Inc.
 Project Address: 250 Shore Road, Bourne
 Proposed Project: Construct a 1500 square foot addition and associated site
 driveway work within an AE Flood Zone
 Hearing Under State Act Only
 Continued from April 17, 2014

Zac Basinski, Bracken Engineering representing – Applicant seeks to construct a 1500 SF addition and associated site driveway work within an AE Flood Zone. This is under the State Act only.

Brendan Mullaney – the proposed work is on a relatively flat developed lot, Flood Zone only, closest Resource Area is Back River across Shore Road. No concerns with the project.

No board comment. No public comment.

Holmes moved and seconded by Weston to close the public hearing. Unanimous vote. Palumbo recused himself from 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.

Kiebala moved and seconded by Weston Draft Order of Conditions to Final Order of Conditions. Unanimous vote.

- 4) **Applicant:** Charles Bristow, Jr. **DEP File Number:** SE7-1895
 Representative: Bracken Engineering, Inc.
 Project Address: 85 Salt Marsh Lane
 Proposed Project: Place fill and regrade, install drainage system, remove and
 replace/repair portion of existing slab, and repair/replace existing
 pier footings within AE and VE Flood Zones and within 100 feet of
 a Wetland Resource Area

Zac Basinski, Bracken Engineering representing – Applicant seeks to place fill and regrade, install drainage system, remove portion of existing slab, and repair/replace existing pier

footings - this project serves to address a flooding problem that has become worse since a new water line was installed and the road slightly regraded.

No board comments.

Brendan Mullaney – the proposed work will be minimal. No other concerns with the project. This project is within an existing lawfully permitted landscaped area.

Abutter from the audience stated has no objections to the proposed work.

Holmes moved and seconded by Weston 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 1,2,3,5,9,10,12,13,16-24 and Special Conditions to the Bylaw 7,8,9.

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

5)	<u>Applicant:</u>	Monica Lewis,	<u>DEP File Number:</u> SE7-1893
	<u>Representative:</u>	Sullivan Engineering, Inc.	
	<u>Project Address:</u>	67 Pasture Road, Scraggy Neck	
	<u>Proposed Project:</u>	Reconstruct an existing licensed stone groin within a VE Flood Zone, within a Wetland Resource Area	

At this time, Chm. Gray returned back to chair the meeting.

John O’Dea representing – Applicant is seeking to reconstruct an existing licensed stone groin on south side of Scraggy neck. No equipment will be in the water and the storage will be above the mean high water mark. Seeking to begin construction in the Fall of 2014 and will take about one month.

Kiebala – asked what equipment would be used. Applicant – we plan to use a crane and a front-end loader. Kiebala asked if applicant sought permission from the Scraggy Neck Association. Stay within the road way above beach property. She has concerns with access onto Scraggy Neck property.

Chm. Gray – the applicant needs to submit a letter from the people who own the road granting access over the private property.

Brendan Mullaney – has access concerns and how the equipment will get to the site. Access should be hashed out and could be put in the Order in terms on monitoring or the revegetation

of disturbed areas. Beach route access is the least destructive. With equipment stored on beach, he recommends a spill kit available.

George Jenkins – recommended a spark arrester to include in the order of conditions. No further public comment.

Palumbo moved and seconded by Weston to continue hearing to 6/5/14 at the request of the applicant.

Weston excused herself from the rest of the meeting.

- 6) **Applicant:** Sean & Shea Burke **DEP File Number:** SE7-
 Representative: SAME
 Project Address: 10 Long Pond Way, Cataumet
 Proposed Project: Construct a single family dwelling with horse barn and paddocks below, including Title V septic system, grading, clearing, landscaping, and other appurtenances within 100 feet of a Wetland Resource Area and within the 200 foot Riverfront Area

Mr. Burke representing – seeks to construct a single-family dwelling with horse barn and paddocks below, including TitleV septic system, grading, clearing, and landscaping. Shows some photographs and explains how they believe this is not a perennial stream. The stream is associated with water controls for the cranberry bogs to the north.

Brendan Mullaney – states the stream is shown as perennial on the USGS topo maps, and that is the original classification. However, this presumption can be overcome if certain conditions are shown to exist. He has personally seen it dry many times.

Letters from George Seaver, citizen who has monitored water quality in this area, and Brian S. Handy of Handy Cranberry Trust read into record.

Chm. Gray – agrees that USGS incorrect in claiming this is a perennial stream. He feels a stretch to call perennial and most proposed work would be severely limited if that was the determination. Based on the information provided and his personal knowledge of the area, He is personally comfortable to classify it in the intermittent category.

Brendan Mullaney – the board has a right to make a determination of the status of the stream based on evidence provided.

Chm. Gray – asked about the horse manure. Mr. Burke states It will have a roof shield from rain keeping it drier. It will be hauled off weekly in a dumpster. Applicant will need to go before the Board of Health.

Kiebala – asked about clearing. Applicant is seeking to keep as many trees as possible.

Chm. Gray – said if a berm is not proposed, he would like a 25 FT+ buffer between the managed area and a stream. He can live with the 15 FT since the berm will stop almost all flow towards the resource area. The stream is also controlled and flows based on the cranberry operation.

No board comment.

Mr. Mulvey – asked the maximum number of animals. The applicant responded three (3) animals. Mr. Mulvey asked about the urine and asked if it would affect the adjacent areas. Horses, when in their turnouts, tend to urinate in their stalls.

Chris Farrell – stated the area is a definite intermittent stream based on his knowledge of it and sees no issues with the project.

No public comment.

Kielbala moved and seconded by Holmes to continue to 5/15/14 at the applicant's request for a file number. Unanimous vote.

7) <u>Applicant:</u>	Vincent Michienzi	<u>DEP File Number:</u> SE7-1897
<u>Representative:</u>	Holmes & McGrath, Inc.	
<u>Project Address:</u>	13A River Road, Pocasset	
<u>Proposed Project:</u>	Construct and maintain a single-family dwelling with attached deck, steps, Title V septic system, removal of existing gazebo, renovation of existing cottage to shed, vista clearing, and all associated utility installation, drywell installation, clearing, excavation, grading, and landscaping within an AE Flood Zone, within 100 feet of a Wetland Resource Area and within the 200 foot Riverfront Area	

Mr. Tim Santos representing – Applicant seeks to construct and maintain a single-family dwelling with attached deck, alternative septic system, removal of existing gazebo, renovation of existing cottage to shed, vista clearing, and all associated utility installation, drywell installation, clearing, excavation, grading and landscaping.

Brendan Mullaney – the property has been in front of the board in the past. In his opinion, the project meets most of the standards for redevelopment in the Riverfront Area. The only issue is excessive clearing in the proposed vista viewshed.

Chm. Gray – Proposal is on developed lot and there are pluses in this project, including the new septic system. He asks about possibly reducing the number of trees to be removed. Applicant said he could leave 3 or 4 trees near the gazebo.

Brendan Mullaney – said he could work with Mr. Santos or someone from his office to determine the number of trees to cut down.

No board comment.

Margot Jenkins – has concerns about how many stories the building is. Chm. Gray said this board is charged with how the building impacts the wetlands and can't address the height of the structure. Applicant stated the dwelling is designed in accordance to the state Building Code.

Palumbo moved and seconded by Holmes 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 1-6,10,13, 16-24 and Special Conditions to the Bylaw 4,5,7,8,9 and add Special Condition 20-24 to continue in perpetuity. ASC-1) Clear-cutting of trees within "vista window" is not allowed by this Order. An on-site pre-construction meeting must be held between project proponent or representative and Conservation Agent to determine limit of "Selective Clearing".

Palumbo moved and seconded by Kiebala Draft Order of Conditions to Final Order of Conditions. Unanimous vote.

8) **Applicant:** Ellen Burns **DEP File Number:** SE7-1890
 Representative: Barbara Frappier, Warwick & Associates, Inc.
 Project Address: 66 Arlington Drive, Buzzards Bay
 Proposed Project: Install a seasonal pier, ramp, and floats within an AE Flood Zone
 and within a Wetland Resource Area
 Continued from April 17, 2014

Hearing is continued to 5/15/14 at the request of the applicant.

Request to Amend Order of Conditions :

1) **Applicant:** Noreen P. Michienzi, Trustee **DEP File Number:** SE7-1865
 One Trowbridge Road, LLC
 Representative: Holmes and McGrath, Inc.
 Project Address: 1 & 11 Trowbridge Road, Bourne
 Proposed Project: Amend existing Order of Conditions to include an addition to the
 existing building, change in configuration of driveway, and grade
 changes within 100 feet of a Wetland Resource Area

Mr. Santos representing – Applicant seeks to amend existing Order of Conditions to include an addition to the existing building, change in configuration of driveway and grade changes- most of the work is outside ConCom jurisdiction. Stormwater calculations have been submitted to Brendan Mullaney.

Brendan Mullaney – Applicant is requesting to build a small addition on eastern edge of the addition. He has no major concern with addition but advises erosion control be replaced at the rear of the parking lot. Applicant stated this issue was taken care of this afternoon.

No board comment. No public comment.

Palumbo moved and seconded by Holmes to Grant Request to Amend Order of Conditions. Unanimous vote. Brendan Mullaney said the Amendment doesn't extend the expiration date and the Order of Conditions will expire in September of 2016.

Other Business

Approval of Minutes 2/20/2014, 3/6/2014 and 3/20/2014

Craig- Rheinhardt moved and seconded by Kiebala to approve minutes of 2/20/14 as submitted. Unanimous vote.

Craig- Rheinhardt moved and seconded by Kiebala to approve minutes of 3/6/14 as submitted. Unanimous vote.

Kiebala moved and seconded by Craig- Rheinhardt to approve minutes of 3/20/14 as amended (Schultz file number added). Unanimous vote. Palumbo abstained.

Excuse Absent Members

Craig-Rheinhardt moved and seconded by Kiebala to excuse absent members Lelito and Ligor. Unanimous vote.

Adjourn

Palumbo moved and seconded by Craig-Rheinhardt to adjourn. Meeting adjourned at 9:20 pm. Unanimous vote.

Respectfully submitted - Lisa Groezinger, sec.