

CONSERVATION COMMISSION MINUTES

November 6, 2014 ~ 7 pm ~ Lower Conference Room, Bourne Town Hall

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, Bourne Enterprise is recording tonight.

Members present: Chm. Bob Gray, Betsy Kiebala, Peter Holmes and Rob Palumbo. Alternate member Thomas Ligor also present.

Members excused: V. Chm. Martha Craig Rheinhardt, Susan Weston

REQUESTS FOR DETERMINATION OF APPLICABILITY

1) Applicant: Thomas Joyce

File Number: CC14-49

Representative: SAME

Project Address: 11 Old Bridge Road, Buzzards Bay

Proposed Project: Reconstruct and enlarge existing deck within an AE Flood Zone Hearing Under State Act Only

Mr. Joyce - submitted letter from his neighbor in favor of the proposed project. He seeks to expand his deck and make 12'x10 and in another section 10'x10' and a flight of stairs.

Brendan Mullaney – the wetland is over 100 FT away. The proposed project will include new footings and some ground alteration. No other concerns with the project.

No board comment. No public comment.

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

2) Applicant: Dennis P. Geisser & Sons, Inc.

File Number: CC14-50

Representative: Thomas Sergio

Project Address: 25 Mashnee Road, Gray Gables

Proposed Project: Install supplemental bearing supports to an existing concrete foundation within an AE Flood Zone and within 100 feet of a Wetland Resource Area

Brendan Mullaney – Mr. Sergio is unable to attend tonight but provided abutter notifications. Applicant has a sinking in foundation and is proposing to excavate and install supplemental supports. No change in the footprint. No major concerns with the project.

No board comment. No public comment.

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

3) Applicant: Bernard & Robin Stelmach

File Number: CC14-52

Representative: Barbara Frappier, Warwick & Associates, Inc.

Project Address: 65 Bellavista Drive, Pocasset

Proposed Project: Remove an existing patio, construct a 3 season porch, remove and replace deck, and remove existing shed and construct a larger shed, including all associated grading, landscaping, and utilities within an AE Flood Zone and within 100 feet of a Wetland Resource Area

Ms. Frappier representing – applicant seeks to use a slab or sauna tube. The foundation is not settled at this time.

Brendan Mullaney – there is a secondary bank on the property. The proposed structures will not be closer than what currently exists. There will be erosion controls. No other concerns with the project.

No board comment. No public comment.

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

4) Applicant: Hope Baker

File Number: CC14-51

Representative: Barbara Frappier, Warwick & Associates, Inc.

Project Address: 119 South Road, Pocasset

Proposed Project: Construct addition to existing dwelling including all associated grading, landscaping, and utilities within an AE Flood Zone and within 100 feet of a Wetland Resource Area

Ms. Frappier representing – applicant seeks to not move the proposed project any closer to the top of the coastal bank than what is currently there.

Brendan Mullaney – this is a small addition which is not proposed to be any closer to the top of the coastal bank. There will be erosion barriers. No other concerns with the project.

Kiebala – asked about the removal of a tree in the corner; Ms. Frappier circled and wrote “remove” on the plan.

No other board comment. No public comment.

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

5) Applicant: Todd & Marcy Arms

File Number: CC14-53

Representative: Barbara Frappier, Warwick & Associates, Inc.

Project Address: 156 Circuit Avenue, Pocasset

Proposed Project: Renovate existing dwelling and upgrade to new Title V septic system including all associated grading, landscaping, and utilities within an AE Flood Zone and within 100 feet of a Wetland Resource Area

Ms. Frappier representing – she briefly described the proposed renovation and mentioned the siltation barriers are not shown on the plans as there won't be an erosion issue.

Brendan Mullaney – the septic will be an improvement over existing conditions and has no other concerns with the project.

No board comment. No public comment.

Holmes moved and seconded by Palumbo Negative Two Determination. Unanimous vote.

6) Applicant: Brett Ellis

File Number: CC14-58

Representative: SAME

Project Address: 47 Buena Vista Road, Pocasset

Proposed Project: Replace two cesspools with a 2,000 gallon tight tank within a VE Flood Zone and within 100 feet of a Wetland Resource Area

Mr. Ellis – there is limited space for the proposed project and will fill in and add a tight tank in the parking area. The topography is all flat and the proposed project will take about a day and a half to do.

Brendan Mullaney – this is a small lot where the septic system failed. The area has no other options and the proposed project will be an improvement over existing system. It is a fairly flat, developed lot. No other concerns with the project.

No board comment. No public comment.

Holmes moved and seconded by Palumbo to Negative Two Determination. Unanimous vote.

7) Applicant: Kevin Ham

File Number: CC14-54

Representative: Falmouth Engineering, Inc.

Project Address: 215 Head of the Bay Road, Buzzards Bay

Proposed Project: Upgrade to new Title V septic system, construct new driveway, and install block retaining wall including all grading, landscaping, and appurtenances within 100 feet of a Wetland Resource Area

Mr. Borselli representing – a failed septic system needs to be upgraded. The Board of Health (BOH) will allow the septic tank to remain in which the pit will be filled and new leaching field will be placed as far from the wetland resource areas as the lot will allow. Applicant is seeking to construct a half moon driveway and a 2 FT stone wall.

Brendan Mullaney – all proposed work will be on the street side and will be an improvement over existing conditions. No other concerns with the project.

No board comment. No public comment.

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

8) Applicant: National Grid File Number: CC14-55

Representative: Coastal Engineering Co., Inc.

Project Address: 6 Olivier Way, Cataumet

Proposed Project: Extend existing gas main and install gas service connection within 100 feet of a Wetland Resource Area

Brad Malo representing – the proposed project will be along a paved, private road to serve house #6 at the end of the cul-de-sac. There are a series of culverts.

Brendan Mullaney – this proposed project is relatively a simple installation. He walked the area and saw what seemed to be an intermittent stream but it was not labeled as perennial on the GPS. This is relatively a simple project. No other concerns with the project.

No board comment. No public comment.

Kiebala moved and seconded by Palumbo to Negative Three Determination. Unanimous vote.

9) Applicant: Christopher & Kelly DeMello

File Number: CC14-56

Representative: Darren Meyer, Meyer & Sons, Inc.

Project Address: 26 Buzzards Bay Avenue, Buzzards Bay

**Proposed Project: Upgrade to new Title V septic system within an AE Flood Zone
Hearing Under State Act Only**

Mr. Meyer representing – this is a proposed project which will upgrade two failed cess pools. There is no proposed increase in flow and the system is within an AE Flood zone.

No board comment. No public comment.

Brendan Mullaney – this is a relatively flat, developed lot. The proposed is a simple project and it is important to state the town bylaw doesn't apply. This will be an improvement over existing conditions and there are no other resource areas within 100 feet of the proposed project. No other concerns with the project.

Palumbo moved and seconded by Holmes to Negative Two Determination. Unanimous vote.

10) Applicant: Ruth Skinner

File Number: CC14-57

Representative: Shawn MacInnes, MacInnes Consulting

Project Address: 54 Tahanto Road, Pocasset

Proposed Project: Upgrade to new Title V septic system within an AE Flood Zone

Hearing Under State Act Only

Mr. MacInnes representing – the proposed is an upgrade of a failed septic system. There is no proposed increase in flow.

No board comment. No public comment.

Brendan Mullaney – there are no other resource areas within 100 FT and the proposed project will be an improvement over existing conditions. No other concerns with the project.

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

11) Applicant: Cumberland Farms, Inc.

File Number: CC14-59

Representative: Bohler Engineering

Project Address: 435 Shore Road, Monument Beach

Proposed Project: Perform renovations on the existing parking area, sidewalks, and above-ground utilities within 100 feet of a Wetland Resource Area

Mr. Brook representing –applicant is seeking an interior and exterior building renovation which includes replacing the sidewalks in the same location for ADA compliance. The proposed project will use the same location and same dimensions. There is an addition of green space (360 SF) within the 100 FT buffer.

Brendan Mullaney – there is an isolated wetland behind the property. There will be no adverse impacts caused by the proposed project.

No board comment. No public comment.

Holmes moved and seconded by Kiebala to Negative Three Determination. Unanimous vote.

NOTICES OF INTENT

1) Applicant: John Foley DEP

File Number: SE7-1909

Representative: Barbara Frappier, Warwick & Associates, Inc.

Project Address: 130 Wings Neck Road, Pocasset

Proposed Project: Upgrade to new Title V septic system with mounded leaching field including all associated grading, landscaping, and utilities within an VE Flood Zone and within 100 feet of a Wetland Resource Area

Ms. Frappier representing – the applicant seeks a septic upgrade only and will be kept far enough away from the resource areas. The mounding for the leaching field will be graded up to the neighbor's retaining wall.

Brendan Mullaney – the mounded system is greater than 2 FT which is why the applicant had to come before the board with a Notice of Intent. This will be an improvement over existing conditions. The leach field is as far from the resource areas as the lot will allow. No other concerns with the project.

No board comments. No public comments.

Holmes moved and seconded by Kiebala to close the public hearing. Unanimous vote

Brendan Mullaney – Draft Order of Conditions: All General Conditions, Special Conditions pursuant to MGL, Chapter 131, Section 40 1-4,9,10,13,14,16-24 and Special Conditions to the bylaw 7,8,9

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

2) Applicant: Paul Alfano DEP

File Number: SE7-1910

Representative: Barbara Frappier, Warwick & Associates, Inc.

Project Address: 160 Jefferson Road, Gray Gables

Proposed Project: Upgrade to new Title V septic system with mounded leaching field including all associated grading, landscaping, and utilities within an VE Flood Zone and within 100 feet of a Wetland Resource Area

Ms. Frappier representing – no work is proposed other than the septic.

Brendan Mullaney – the proposed project meets the policy of 2 FT, this is the reason a Notice of Intent was required. It will be an improvement over existing conditions. No other concerns with the project.

No board comments. No public comment.

Kiebala moved and seconded by Holmes to close the public hearing. Unanimous vote.

No board comment. No public comment.

Brendan Mullaney – Draft Order of Conditions: All General Conditions, Special Conditions pursuant to MGL, Chapter 131, Section 40 1-4,9,10,13,14,16-24 and Special Conditions to the bylaw 7,8,9

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

3) Applicant: MassDOT Rail and Transit

DEP File Number: SE7-1912

Representative: Lars Carlson, Jacobs Engineering Group

Project Address: Off Sandwich Road within Railroad Right of Way adjacent to Bourne Bridge

Proposed Project: Construct a 4,000 square foot rail station platform, relocate existing rail crossing, and reconstruct access drive including all appurtenances within an AE Flood Zone and within 100 feet of a Wetland Resource Area. Under State Act Only.

Mr. Lars Carlson representing – there are improvements within the railroad right of way and also proposed on the Army Corp property. Station platform will have precast concrete sections. Parking area is adjacent at the same elevation as the platform. The parking lot will be reconfigured. There is no intention for commuter parking at this location and will include weekend passenger service only. There will be no alteration of the bank. The drainage consists of swales that lead into drywells. The proposed project will maintain existing draining patterns.

Holmes – asked how this affect the addition of the placement of another bridge. The applicant is coordinating with the Corps of Engineers

Brendan Mullaney – the entire project not subject to the bylaw. Only the work that is within the State right of way is subject to the state regulations. The work that is within jurisdiction is the platform and associated rail work. There is no adverse or negative impact on the any of the resource areas. The work as proposed meets performance standards under the Wetlands Performance Act.

Mr. Mulvey – anything of this magnitude should have been on live TV to voice opinions and the public should have the ability to know about this project.

Mr. Henderson – asked about water quality and the wetland creatures. There have been no studies conducted; treatment elements in the system are to be protective of the wetland resources.

Mr. Donald Ellis – this is the first anyone is hearing of this project and this has never been discussed before the Board of Selectmen in a public hearing. He would recommend the

applicant to come before the Board of Selectmen. Mr. Carlson will relate this back to the applicant; the intent is to improve conditions for daily users.

Chm. Gray – it is in the buffer zone of the wetland. Most of the project is in a coastal flood zone; there are no performance standards in a flood zone. The board has a very limited role. Under the regulations, the Commission cannot address issues such as traffic, noise, etc.

Mr. Nelson – he feels there is an issue of splitting the two projects and feels it is misleading.

Brian Maroney as Mass DOT Representative – will bring all concerns to the Mass DOT.

Mr. Carlson – the second application will be separate to the station; each project will have an independent contract and that is why there is two filings. He is not requesting to close the hearing tonight.

Chm. Gray – suggested the presenters and DOT take application to a public forum as a courtesy. All files will be held in the Conservation office for review.

At the request of the applicant, this hearing will be continued to 12/4/14.

4) Applicant: MassDOT Rail and Transit DEP

File Number: SE7-1911

Representative: Lars Carlson, Jacobs Engineering Group

Project Address: Within Railroad Right of Way on north and south side of Cape Cod Canal Vertical Lift Railroad Bridge

Proposed Project: Perform track and signal improvements, including siding tracks and signal houses, within an AE Flood Zone and within 100 feet of a Wetland Resource Area. Under the State Act.

Mr. Lars Carlson representing – stated he notified everyone on both abutter lists for both hearings and submitted the one set of green cards. The work is relative to safety improvements which will include removing existing switches, replacing with new switches and extend existing passing siding more into Buzzards Bay station to facilitate moves on the lift bridge. Work proposed on the north and south sides were reviewed. A new catch basin which will replace an existing basin. Proposed signal instrument house and erosion protection proposed.

No board comments.

Brendan Mullaney – some of the work is within the jurisdiction of the board. The “isolated wetland” is the only area to look at but most is under the State. Applicant seeks to minimize adverse impacts.

Mr. Mulvey – commented about the catch basin. Mr. Carlson said the application will maintain the existing flow patterns. The start date will be in March 2015.

Holmes – requested written analysis of what is located in the isolated wetland area.

At the request of the applicant the hearing will be continued to 12/4/14. A site visit will be scheduled by the board within that time frame.

5) Applicant: Fiddlers Green Limited Partnership

File Number: CCNOI 14-01

Representative: Brian Madden, LEC Environmental Consultants, Inc.

Project Address: 53 MacArthur Boulevard, Bourne

Proposed Project: Construct a gravel access drive and associated stormwater appurtenances, grading, landscaping, and utilities associated with a proposed ground-mounted solar photovoltaic system within 100 feet of a Wetland Resource Area

Hearing Under Town of Bourne Wetland Protection Bylaw (Article 3.7) Only

Mr. Madden – the applicant stated a solar field is in the far eastern part of the site (25 AC) and is proposing a 10 FT wide gravel drive to access the site. There will be erosion control with stormwater management; swales and rip rap swales.

Ligor – asked about a wildlife survey. Mr. Madden explained the project is going through an extensive review process with Natural Heritage and found one box turtle.

Chm. Gray – asked if the applicant is responsible for doing a sweep before construction begins. Mr. Madden responded yes.

Brendan Mullaney – There are two isolated vegetated wetlands – calculations have been supplied by Bracken Engineering that show these do not meet the criteria for protection under the state act, only under the Bylaw. The work itself between the two depressions have given separation and respect the 50 FT no structure, no roadway portion of the bylaw. Overall, a small portion of the site being developed – project has been before local and State agencies and passed muster.

No board comments. No public comment.

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

Brendan Mullaney – Draft Order of Conditions: Issued only pursuant to the Town of Bourne Wetland Protection Bylaw – All General Conditions and Special Conditions 1,2,3,9,10,12,13,16-20

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

6) Applicant: Massachusetts Maritime Academy DEP

File Number: SE7-1908

Representative: Stanley Humphries, LEC Environmental Consultants, Inc.

Project Address: 101 Academy Drive, Buzzards Bay

Proposed Project: Construct a waterfront protection project including a pile

supported concrete pier, associated dredging and reuse of dredged material, and all associated facilities, utilities, and appurtenances within AE and VE Flood Zones, within a Wetland Resource Area, and within 100 feet of a Wetland Resource Area

Mr. Humphries representing – the local bylaw does not apply to the application. The DEP noted on Sheet 3 there was a lack of labeling on resource areas. He submitted revised plans to the board and reviewed the resource areas that will be impacted. There is a reveted coastal bank, coastal beach and coastal dune which is shown on the plans. The eel grass bed was mapped and detailed and led to an extensive alternative analysis for the pier. This is a water dependent project. The purpose of the proposed project is for better protection of the vessels as well as improvement with navigation within the area for said vessels. Improvement and maintenance dredging will be done. Disposal area will enhance the existing dune. The dredging will be conducted by the Barnstable County Dredge. A berm and silt socks will be used for erosion control. The applicant is working with the local Shellfish Constable. Elevation of the decking is 12. The Shellfish Survey has not been conducted at this time, but is part of the extension of the work proposed. Applicant will work with the local Department of Natural Resources.

Erosion control will be in place between the salt marsh and area of dune re-nourished will have silt fence and silt socks. Erosion control will show the earthen dam in the entire location of the edge of the salt marsh and the dune itself.

Brendan Mullaney – the scope of the pier is unprecedented as far as he has seen. Recreational use may be addressed at a later time. There are a number of steps and regulatory approvals that are required. Overall it appears to meet performance standards as written but there is a grey area in terms of shellfish value, finfish value and recreational value. This is a major project and a lot of information for the Commission to digest.

Mr. Humphries – the beach grass will be planted at 18” on center, snow/sand fences will remain up until the grasses can trap sand. Chm. Gray suggested “woody” plants in addition to the grasses. This will be brought to the MMA for consideration.

Ligor – asked if the concrete pier is pre-cast sections. Mr. Humphries explained there will be mitigation grounding of the barge which will be maintained to have 15’-20’ water inside.

No further board comments.

Mr. Mulvey – he feels this application is way far beyond the use for the academy and way beyond what should be allowed. The third section should never be allowed.

Mr. Langille– asked about a storm surge. Paul Forgioni from Mass. State Building explained a scouring study was done.

Ms. O'Colin – raised concerns for the shellfish beds with idling boats above them. She is concerned the dredge material will upset the vegetated dunes. She feels the project is only benefitting the academy.

Mr. Roy – concerned about the dredging material the amount of hauling off site. 30,000 cubic yards. This project is massive and has too many ripple effects.

Mr. Mahoney – has an issue with the project as being too massive.

Mr. Mullen – the whole flat is a prolific shellfish area which propagates itself annually. All the dredging is for maintaining habitat channels; the town wouldn't be able to do anything like this project under the bylaw. His concern is the shellfish in the area.

MMA representative Captain Bushy of the USS Kennedy – explained the significant waves that make an unsafe condition for the vessels and believes the need of waterfront protection. Topography analysis will give better clarification.

Mr. Humphries-There is no target date for the shellfish survey at this time. DMF was in support of this project.

Discussion on scaling down the project held.

Chairman Gray – Board will be looking for more detail in the nourishment area, more info on shellfish and impacts, and possibility of scaling project down to smaller footprint.

At the applicant's request, the hearing will be continued to 12/4/14.

CERTIFICATE OF COMPLIANCE

1) Applicant: Joanne Normandin, Trustee

DEP File Number: SE7-1089

Representative: Silvia & Quinn, P.C.

Project Address: 39 Buttermilk Way, Buzzards Bay

Proposed Project: Install a septic system with re-circulating sand filter within a VE Flood Zone and within 100 feet of a Wetland Resource Area

Brendan Mullaney – a site visit conducted and recommends to grant Certificate of Conditions.

Palumbo moved and seconded by Holmes to grant Certificate of Conditions. Unanimous vote.

2) Applicant: Joanne Normandin, Trustee DEP File Number: SE7-1605

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

Project Address: 39 Buttermilk Way, Buzzards Bay

Proposed Project: Construct a garage and breezeway addition to an existing dwelling within a VE flood zone and 100' to a wetland resource area

Brendan Mullaney – a site visit conducted and recommends to grant Certificate of Conditions.

Palumbo moved and seconded by Kiebala to grant Certificate of Conditions. Unanimous vote.

Approval of Minutes 9/4/14

Kiebala moved and seconded by Palumbo to approve minutes of 9/4/14. Unanimous vote.

Vote – Excuse Absent Members, if necessary

Palumbo moved and seconded by Holmes to excuse absent members Craig Rheinhardt and Weston. Unanimous vote.

Other Business

None.

Adjourn

Palumbo moved and seconded by Holmes to adjourn the meeting. The meeting adjourned at 10:35 PM. Unanimous vote.

Respectfully submitted - Lisa Groezinger, sec.