



CONSERVATION COMMISSION MEETING MINUTES– February 10, 2020

Present: Laurie Freeman - Chair, Bob Hidell, Bob Mosher, and Crystal Kelly - Commissioners, Loni Fournier- Conservation Officer and Sylvia Schuler- Administrative Secretary

Absent: Jacqueline Zane-Vice Chair and Commissioners John Mooney and Thomas Roby

The meeting was called to order at 7:06PM.

Approval of Minutes

Commissioner Kelly was the only commissioner present who had been at the January 27, 2020 meeting and therefore a vote to approve the minutes from that meeting was postponed.

Certificates of Compliance

15 Howard Road - DEP 034-1300, continued from 1/13/2020

Applicant: John Vermeulen

Excerpts from the staff memo: *No discussion took place. The representative submitted the attached letter and staff responded via email (also attached). The representative has indicated to staff that they would prefer a vote from the Commission, based on the submitted materials, in order to close out the Request for COC. Further discussion regarding an Amended OOC would be worthwhile, if the Commission feels that it is a productive path forward.*

Meeting Documents & Exhibits: *Wetlands Filing Summary Memo, representative's letter and staff email*

Representative Jed Hannon from Atlantic Coast Engineering was present. He briefly summarized the information shared at previous meetings, that the project was constructed in substantial compliance with one deviation being the additional seasonal float that was added to the pier structure. An Order of Conditions had been issued and the pier constructed and for safety and structural reasons, the homeowner and contractor had an additional float added for stability. He reviewed the initial meeting with the Commission requesting a Certificate of Compliance and the feedback they'd received from the Commission which included a recommendation from the Commission to conduct a Wind and Wave study. Another consultant was hired for the study, the result of which lent itself to the fact that the addition of the 15' by 20' float had made the overall float system a lot more stable. He added that since it had been added there had been no further structural damage to the piles or the gangway which had cracked prior to the addition of the seasonal float.

J. Hannon summarized the letter he'd most recently submitted to the Commission requesting a variance from the town bylaws whereby there is language in there to allow variances if an applicant can back up why it's needed; in this instance, for safety and structural issues that were pre-existing. He requested that the Commission vote on the Request for Certificate of Compliance (COC) or provide its opinion whether they can seek an Amended Order of Conditions or receive a variance.

Commissioner Hidell stated that he presumes the Request for Certificate of Compliance means only for the 10' by 20' float without the additional float. J. Hannon suggested that the Commission has 3 signoff options for a Certificate of Compliance and the one applying to this situation would be that there was 'substantial' compliance. The Commission and C.O. discussed the options for a Certificate of Compliance; complete, partial or invalid, and concluded that the 'substantial' compliance would not apply in this instance, nor would the issuance of a 'partial' COC which implies that there are conditions that have yet to be met and often with a date certain, ie. mitigation planting survival, before a full COC is issued. The Commission expressed sympathy for the situation but suggested that their hands are tied.

Commissioner Hidell, referring to the conclusion of J. Hannon's letter regarding 'the safety and liability issues' asked J. Hannon whose liability was he referring to. J. Hannon replied that it was the liability associated with the bylaw that was passed on restricting seasonal floats to a certain size when they are impacted by large waves from boats, and

specifically the ferry, that make their way to this property, as substantiated by the Wind and Wave study. Commissioner Hidell confirmed with J. Hannon that it suggested that it was the town's liability. Given the example of a person being knocked off the float due to wave action, J. Hannon confirmed that it was the owner's position that the town could potentially have liability issues. Commissioner Mosher suggested that the homeowner would have the liability for permitting people on his float if he knows it's not safe. Commissioner Hidell stated that the Commission is not in a position to sign off and that there is no loose interpretation in the bylaw, but if they want to come back with a petition to change the regulations, along with a rationale behind the suggested change, then the Commission could study it and take it under consideration through a public process. J. Hannon reiterated that the regulations have language that allows the Commission, if there's back up information to substantiate a safety or structural issue, to allow something that varies from the bylaw. He suggested that there is some conflicting language and direction about how to proceed. Commissioner Hidell quoted J. Hannon as stating that the addition of the other float has made the system 'a lot more stable' and argued that from a public health safety perspective, 'a lot more stable' doesn't work as a quantifiable term. He added that, looking at the Wind and Wave study, there is no question that there is significant wave action there that is disruptive to the use of this dock. Brief discussion followed.

J. Hannon summarized that at some point the Commission would need to vote, that the applicant has an open Order of Conditions, a structure that's been built, and that the Commission should instruct them to either remove the additional seasonal float because it's not in compliance with the bylaw, or, allow it given the information provided relative to safety and structural issues and stated that there is language in the bylaws allowing them to do that.

Commissioner Hidell stated that in his opinion, the applicant needs to come before the Commission with a petition to change the regulations, revise the language, and the Commission will seriously look at it although there are no guarantees. When asked her opinion, the C.O. stated that she had laid out a concise summary of options in her email response to J. Hannon's submitted letter. Brief discussion followed regarding the options available to the applicant. J. Hannon stated that it had been since August 2019 that they'd first applied for a COC and it has been continued since then.

The C.O. confirmed with J. Hannon that in her phone conversation with him that he was most interested in a vote on the Request for Certificate of Compliance, whether that would be an approval of a full COC with the second float, or, a denial of the Request for Certificate of Compliance. J. Hannon asked if they would be able to approve the Certificate of Compliance contingent on the removal of the second float. The C.O. stated that the Commission could approve based on revised As-built plans showing it with only one float. J. Hannon noted that if the owner does want to try to change the bylaw, they would then need to apply with an NOI for the second seasonal float because this Order of Conditions would be closed out. The C.O. confirmed the Commission's options, one, to either approve it, with submittal of a revised As-Built plan showing it without the additional float or to deny it and the applicant has time while the Order of Conditions is still current to try to change the regulations, then request an Amendment to the Order of Conditions and then get their full COC.

Brief discussion followed about the length of time the regulations change process might take and potential enforcement should the second float be put out again in the summer. J. Hannon stated that he would ask to continue to February 24, 2020, and could notify his client of the scenarios and get direction from his client.

Motion: Commissioner Hidell moved to continue consideration of the Certificate of Compliance for 15 Howard Road DEP 034-1300 to February 24, 2020.

Second: Commissioner Mosher

In Favor: All

Opposed: None

Off Old Ward Street - DEP 034-0614, continued from 1/27/2020

Applicant: Black Rock Country Club (formerly Hingham Resources, LLC)

Representative: Sarah Stearns, Beals + Thomas, Inc.

Excerpts from the staff memo: As of 2/6/20, no additional information has been received.

Meeting Documents & Exhibits: Wetlands Filing Summary Memo, Documents received the day of the meeting: 'Utility As-Built Plan' dated 3/3/06 with hand drawn catch basins & runoff (red ink), 'Detention Basin Asbuilt As-Built Plan' (sic) plans with detention basins 1 and 2, 'Utility As-Built Plan' dated 3/3/06 with detention basins 3 and 4 highlighted in pink, and a letter from the Trustees stating that annual maintenance of the catch basins and the detention basins were included in the budget. Mullins forms were submitted by Commissioners Hidell, Freeman and Mosher for the meeting missed on January 27, 2020.

George McGoldrick, representing the Trustees of the Residences at Black Rock, was present. He distributed copies of the 3 page 'plan set' to each Commissioner. He stated that a letter had been submitted to the C.O. that afternoon from the management regarding street sweeping, the maintenance of both catch basins and detention basins and the budgeting for said maintenance. Asked if she was satisfied with the language of the letter, the C.O. stated that she was and read aloud from the letter, "...confirm that Residences at Blackrock have the roads swept annually each spring to remove any sand that has accumulated during the winter as part of their snow removal and landscape contracts. Residences at Blackrock have also created and implemented a maintenance plan for their catch basins and detention basins, find the maintenance plan previously submitted to us, it will be funded out of their annual operating budget."

The C.O. stated, that for the outstanding items, there were two pieces for discussion. One is the drainage system, and having an idea of what was built and how it's being maintained, and the second is the use of the deicing chemicals. She noted that the catch basins have been mapped and asked G. McGoldrick to clarify some arrows on the plan showing discharge points. The C.O. asked him that if there are 10 outfalls and 4 basins, is it safe to say that there are 6 outfalls are going to a wetland area and G. McGoldrick confirmed this.

The C.O. stated that there was a remaining question for the Commission to discuss. The original perpetual condition for the development of this property said that where runoff/drainage will discharge into the wetlands there should be no use of deicing chemicals. She suggested that the Commission compromised on that by identifying low areas on the roadways that would have a different mixture than what is used elsewhere on the property. The C.O. stated that it wasn't clear to her which 6 outfalls, on the most recently submitted plan, discharge into wetlands and if they overlap with these reduced salt areas. Is the Commission missing a potential review of outfalls that discharge into wetlands that aren't captured by the reduced salt areas on the plan.

G. McGoldrick stated that the plan submitted a couple of weeks ago, that showed the three areas where they would not use the deicing chemicals but just the sand, captures the two catch basins as you come in the main entrance. At the bottom of the page, it captures the one that goes offsite as well as the one to the left of that. He added that there are four of them that are not directly on the road, and gave an example of an area on the plan where it stated 'sheet 9' where there is a runoff that was built, and in eighteen years has never had any flow through it at all. That goes to one of the manmade ponds, which has no species in there because it was blasted out of rock, and which they use as a secondary irrigation pond. Above that 'sheet 9' there is another catch basin off the road, and, above where it says 'sheet 3', there is a detention basin where there are two catch basins which also flows into a manmade detention basin. G. McGoldrick offered that if there's something the Commission wants to adjust on those three or four, they could. The C.O. stated that she just wanted to be sure they were talked about and not blanket approved without considering the original intent of the order.

The C.O. stated that it would be helpful to figure out which of the 6 points on the plan don't discharge into a detention basin or other manmade pond. G. McGoldrick stated that on the bottom of the sheet that there are two that discharge into the manmade irrigation ponds, just to the left of where it says 'sheet 7' where it says irrigation pond and the other says 'phase one' and that goes into a detention pond. The C.O. stated that those are two and there should be two others that go into a detention pond, one just north of there just above 'sheet 9' and G. McGoldrick said that goes into the manmade detention pond. The C.O. confirmed that the last one is above 'sheet 3' and all the others are discharging into a non-manmade wetland, and G. McGoldrick confirmed that there would be two of them outside the areas where they had already talked about in terms of changing the 'magic salt'. The C.O. confirmed that those two are at the top left of the plan, on either end, north and south, where it says 'sheet 4'. Commissioner Hidell asked if those were identified in the maintenance plan submitted and the C.O. stated that they were not. He stated that G. McGoldrick could submit it in a letter as an amendment to the maintenance plan, even with just a paragraph, to include them. G. McGoldrick stated that he could do that and asked if there was additional maintenance wanted for those and the C.O. stated that she'd mostly brought it up because those outfalls go to non-manmade resource areas and the original order was trying to prevent salt from being discharged into the resource areas.

The C.O. asked if any of these areas were on steep portions of the road and G. McGoldrick stated that the two areas on the far left by 'sheet 4' are flat. The C.O. emphasized that it is to be sand only in those two areas and G. McGoldrick stated it was easy enough to add it for those areas and agreed to amend the maintenance plan to reflect that. Commissioner Freeman then confirmed that all the other spots are either already avoiding salt or they're going into manmade detention. The C.O. stated that, for future tracking purposes, she would like to have all these items on one plan; the basins, discharge locations and the no-salt areas.

The C.O. stated that, as discussed at the prior meeting, the originally submitted catch basin maintenance plan proposed inspecting quarterly and cleaning annually. The recently submitted plan has a revision to that which is both inspecting and cleaning annually but checking for obvious debris daily. The Commission agreed that they were comfortable with that reduction in maintenance.

The C.O. noted that there was an As-built plan for only 2 of the 4 detention basins (*Page 2 of the submittal*). G. McGoldrick stated that he'd been unsuccessful in locating a plan for the other two and stated that if they can't find them that they will bring someone out to recreate them.

The C.O. stated that the maintenance plan submitted on the letterhead, dated January 24, 2020, includes in the title 'Detention basins' but there aren't any activities associated with the detention basins included in the plan. The text only refers to catch basins and so it would be helpful to add that the detention basins will be inspected and cleaned annually. The C.O. pointed out that on the Excel Spreadsheet 'checklist' there is some 'basin' maintenance activity listed but it's only for the detention 'pond' so that might be a minor edit where instead of calling it a detention 'pond', change 'pond' to 'basin' so it refers to all 4 detention basins. She added that she felt all the other activities were appropriate, 'removing debris and litter', 'inspecting for bank erosion', and 'inspecting for sediment' and she feels these are all appropriate for the detention basins.

The C.O. stated that, should the Commission be on the verge of approving, the only question she has is to do with the perpetual condition #36 which says 'No deicing chemicals shall be used where runoff/drainage will discharge into the wetlands. This condition shall remain in perpetuity, and shall be recorded as such on the Certificate of Compliance.' The C.O. realized that with G. McGoldrick's willingness to amend those two northerly basins and have it be sand only, the Commission is now meeting that condition. G. McGoldrick asked for clarification and the C.O. explained that, by converting the roadway areas adjacent to the two northerly basins and having them be sand only enables them all to meet that perpetual condition.

G. McGoldrick repeated the items that have been requested;

- 1, Amend the maintenance plan to reflect no 'magic salt' in those areas at 'sheet 4'.
- 2, Combine the catch basin locations, discharge points, detention basins and no salt areas onto one plan.
- 3, Try to find As-Builts for the 3rd and 4th detention basins and if unsuccessful to have As-Builts recreated.
- 4, Add detention basin annual inspection and cleaning to the maintenance plan.
- 5, Correct the language on the spreadsheet from detention 'ponds' to detention 'basins'.

G. McGoldrick asked if they would be willing to issue the Certificate of Compliance and he would provide the 5 remaining items to the C.O. asap. The Commission considered this and acknowledged that G. McGoldrick had been very responsive to providing information and doing legwork. The C.O. noted that by issuing a COC the Commission loses leverage for requiring further information. The Commission considered that the vote could be continued to the next meeting, before which G. McGoldrick could submit the outstanding items, and the Commission could vote without him having to attend. G. McGoldrick explained that they are submitting a water withdrawal application to the state on Friday and the COC is needed. G. McGoldrick assured the Commission that he would provide the requested compiled plan and make the few changes needed.

Motion: Commissioner Hidell moved to issue a Certificate of Compliance for Off Old Ward Street, MA DEP 034-0614.

Second: Commissioner Kelly

In Favor: All

Opposed: None

24 Harvest Lane - DEP 034-0043

Applicant: Jean Roberts

Representative: Brendan Sullivan, Cavanaro Consulting, Inc.

Excerpts from the staff memo: As of 2/6/20, no additional information has been received.

Meeting Documents & Exhibits: Wetlands summary memo

Brendan Sullivan explained that he had been in touch with the lawyers and the problem is that the applicant is no longer the owner. B. Sullivan stated that it's a minor item, cleaning up some clippings and wood, and they are trying to get that done.

Motion: Commissioner Kelly moved to continue consideration of a Certificate of Compliance for 24 Harvest Lane, MA DEP 034-0043, to 3/9/2020.

Second: Commissioner Mosher

In Favor: All

Opposed: None

119 Beal Street (aka Weathervane at Chestnut Gardens) - DEP 034-0841

Applicant: 137 Beal Street, LLC

Representative: Gabe Crocker, Crocker Design Group, LLC

Excerpts from the staff memo: An Order of Conditions was issued in March 2006 for the redevelopment of an existing maintenance and storage yard into a 23-unit condominium complex with associated driveways, grading, landscaping, stormwater management facilities, and utilities. As part of the project, a section of bordering vegetated wetland was filled and a wetland replication area and new culvert were constructed. The as-built plan largely adheres to the final approved plan, however the representative noted several discrepancies (below). Staff concerns, where applicable, follow in italicized text. Staff visited the site on 2/3/20.

- *A six-foot diameter leaching catch basin was added to the bottom of both basins. These were added into the design as part of the final peer review process by the Planning Board shortly after approval by the Conservation Commission. These basins help to promote stormwater infiltration.*
- *A grassed slope was constructed in lieu of the proposed retaining wall along the south side of Basin #1. The grassed slope provides for improved safety, aesthetics and maintenance access.*
- *An irrigation pond was constructed behind Units 8, 9 and 10 to supply the irrigation water for the development. The pond is surrounded by split-rail fencing.*
- *The PVC screening fence was shifted from the south side of Basin 1 to the north side along with the walking path. The as-built location of the fence provides more effective screening between this development and the abutting properties compared to the plantings shown on the approved plans.*
- *The gravel walking path was upgraded to decorative brick pavers for improved aesthetics and pedestrian safety. The path has been nicely fit into the surrounding landscape and we observed several folks utilizing the path while we were performing our site walk.*
- *Lastly, the wetland mitigation area appears complete and good condition. We noted the presence of some invasive vegetation, however it is evident the applicant has and continues to actively manage the vegetation to remove/minimize its presence as it arises.*

Staff agrees that the wetland mitigation area appears complete and in good condition, with the exception of a significant amount of invasive vegetation. Although any efforts to manage invasive plants are appreciated, staff would encourage only limited activities in the wetland, such as hand cutting invasive plants, without additional review and input from the Commission. Smaller patches of Japanese knotweed were observed in the buffer zone and staff would encourage their removal to avoid the plants spreading to a larger area. There were no conditions for monitoring reports or plant survival for the wetland replication area.

Staff observed, and the consultant confirmed, that all catch basins are equipped with sumps and oil and gas traps in accordance with the Order. The Order also contained a perpetual condition that drainage structures be maintained as follows: "It is the sole responsibility of the owner of record to maintain drainage structures at all times. Catch basins and manholes shall be cleaned on an as-needed basis, but in no case less frequently than every six months. The property owner is responsible for maintaining records of this maintenance and cleaning for review by the Hingham Conservation Commission." Staff obtained documentation that the catch basins had last been cleaned in September 2019.

Meeting Documents & Exhibits: Staff Memo, and plan Weathervane at Chestnut Gardens "As-Built Plan" dated 1-27-2020, and vegetation photos from the site visit.

Gabe Crocker of Crocker Design Group LLC was present with the applicant Jim Bristol, J&K LLC. G. Crocker summarized that the overall project is complete, the replication area has fully vegetated, the storm water and infiltration structures are in place and the site is being actively maintained by the HOA now. He explained that he and the Asst. C.O. had reviewed onsite some of the differences from the original plans and the completed construction.

G. Crocker indicated on the As-Built plan where the 8 ft PVC fence was placed, providing better screening but on a different side of the basin. He pointed out the irrigation pond. G. Crocker stated that upon first inspection it seemed as if the plantings were short on number but they'd reached out to the landscaper who did the installation and he was able to point out the plantings. He added that it's so thick with vegetation back there it is hard to see them. He showed the Commission vegetation photos from that day's site visit and explained that much of the vegetation is native sumac. The walking paths were upgraded from gravel to decorative pavers. He explained that after the project was approved by Conservation, it was also approved by the Planning Board which required two 6 ft diameter leaching catch basins one in the bottom of each basin (pointed out on the plan). He added that the basin are in very good overall condition and are actively maintained and remain dry.

Commissioner Hidell noted the staff memo comment regarding fewer plantings and the C.O. explained that with follow up, it was determined that there were more plantings that initially observed behind the fence, and with the shift of location of the fence, it's likely there was not enough space for the plantings that were slated to be between the path and the fence. Staff could see there was the effort to have planted, it was likely they couldn't have accommodated all the plantings with the current layout. She noted that the invasive species are running rampant and it's possible that any plant intentionally planted might be overrun. The C.O. added that staff feels nothing more could be required and where it is stable and growing, it is not useful to go back and tear things up just to plant. Staff feels the plantings are resolved.

An area with bare soil had been noted on the eastern end and G. Crocker stated that there had been some recent vegetation maintenance which resulted in the bare soil and they are committed to seed that bare patch with an erosion control mix. The C.O. stated that the last item was the trash and G. Crocker stated that the trash was actively being picked up that day.

Motion: Commissioner Mosher moved to issue a Certificate of Compliance for 119 Beal Street, MA DEP 034-0841.

Second: Commissioner Hidell

In Favor: All

Opposed: None

Abbreviated Notices of Resource Area Delineation

0 Southeast Expressway- DEP 034-1350, continued from 1/27/2020, **continued to 3/9/2020**

Applicant: South Shore Industrial Park Trust

Representative: Kelly Killeen, CHA Consulting, Inc.

Excerpts from the staff memo: No discussion took place. Additional time is needed to complete the peer review process.

As of 2/3/20, the representative has completed their survey work and is coordinating with the peer reviewer. Staff anticipates revised plans.

Meeting Documents & Exhibits: Wetland Filings Summary memo

Prior to the meeting, the applicants had requested to continue to the March 9, 2020 meeting.

Request for Extension of Order of Resource Area Delineation

100 Industrial Park Road – DEP 034-1271

Applicant: JEB Group, LLC

Representative: Lawrence Beals & Bryan Sutherlin, Beals Associates, Inc.

Excerpts from the staff memo: The applicant is requesting a three year extension, following the recent issuance of a 60-day extension. The current extension will expire on 2/19/20. As of 2/6/20, no additional information relative to the status of the stream located partially on this property and partially on 0 Southeast Expressway has been received.

Meeting Documents & Exhibits: Staff summary memo and L. Beals displayed multiple plans and chart on easel.

Representatives Lawrence Beals and Bryan Sutherlin, were present. L. Beals reviewed the past permitting for the site, explained his long involvement with the parcel and gave an extensive history of the site. He described the stream channel, stating that it was a dug channel, likely with a sizeable excavator, with 'spoil banks' and 'mounds'. L. Beals displayed an aerial view for perspective and traced the drainage area on the plan and pointed out the 'headwaters' to the stream channel.

Another map displayed was of the watershed. L. Beals gave a detailed description of the area and explained the calculations and standards used to define a stream as an intermittent stream. He gave details regarding this particular site with one method of calculations resulting in 0.07 sq miles and the Streamstats modeling resulting in .13 sq miles, both indicating that the stream is intermittent.

L. Beals described the geology of the site with a detailed description of the soils found onsite; 'Swansea muck', 'Urban land', 'Cantons' and 'Newfield'.

L. Beals reviewed the riverfront regulations and the documentation required in the past as well as what is currently required for proving the status of a river. He stated that, notwithstanding that in 2006 they had drawings of 4 days with no flow, they have subsequently shown 2 more days of no flow and, in 2006 when they got the approval, they had photos and an affidavit. He noted that there is no 'sunset provision' in the regulations and argued that with the documentation shown once, it can be used now. He couldn't find anything in the regulations saying the documentation had to be in the last three years or anything.

L. Beals stated that he didn't see that the reasons for denial of extension apply. There is no new information or evidence because, in 2006 when they did their analysis, they were aware of the fact that the USGS shows the stream as a solid blue line. He described the solid blue line indicating a perennial stream as a possible cartographic error, and as

'evidence' that they dealt with in 2006 and subsequently. Commissioner Freeman noted that the new evidence the Commission was considering was that there had been two wetland scientists on the abutting property that labeled the same stream as perennial. L. Beals stated that he had looked at as much information as he could, and couldn't see anything showing a quantitative analysis showing how they came to the conclusion that it was a river and not an intermittent stream. He suspects that whoever reached that conclusion, saw the solid blue line on USGS and didn't go beyond that, and L. Beals suggested that it didn't get the same focus because it's on the extreme far side of the site and is irrelevant for what might happen on that site. He hasn't seen anything that demonstrates through Streamstats, watershed, or soils analysis or anything that shows that this is a river and not a stream.

Discussion followed L. Beals' presentation. The C.O. explained that the request for extension and the neighboring ANRAD had been submitted around the same and the plans for the ANRAD showed the stream as perennial end to end. The boundaries were delineated on that abutting property by field observations by wetland scientists and that was enough for staff to suggest that more time was needed to sort through the information. Six months later, the ANRAD is moving slower than expected and there have been no significant submissions to the office, however, the C.O. has touched base with the peer reviewer and he agrees with everything that's been discussed. He had let her know that he had observed the stream flowing once but added that it doesn't mean anything and he also ran the Streamstats and got the same results as the C.O. and B. Sutherland. The C.O. added that should one list the evidence for it being either perennial or intermittent, the list of evidence pointing to it being intermittent outweighs the list under perennial. Discussion followed with the Commission reaching a consensus that the stream on this property is intermittent while acknowledging that at some point downstream it turns perennial but the exact location is uncertain. The Commission agreed to extend the ORAD for 3 years.

Motion: Commissioner Kelly moved to issue a 3 year extension for the Order of Resource Area Delineation for 100 Industrial Park Road, MA DEP 034-1271.

Second: Commissioner Mosher **In Favor:** All **Opposed:** None

Commissioner Freeman read the Public Hearing Notice of Intent.

Notices of Intent:

156 Chief Justice Cushing Highway – DEP 034-1349, continued from 1/13/2020

Applicant: Fred Butts

Representative: Brendan Sullivan, Cavanaro Consulting, Inc.

Proposed: Construction of single family home and septic system

Excerpts from the staff memo: No discussion took place. The applicant has also filed with the Planning Board, who hired a peer review engineer. Plan revisions are ongoing and staff is coordinating with the representative, who will be making an initial presentation to the Commission. Staff anticipates a request for a continuance until 3/23/20.

Meeting Documents & Exhibits: Wetland Filings Summary memo

Representative Brendan Sullivan was present and gave an overview of the proposal; construction of a single family house on a vacant lot that was formerly pasture. He's been working with the peer reviewer, John Chessia, and the Planning Board with a Site Plan Review. They have a septic system plan submitted to the Board of Health. They also have a Mass Highway application for a curb cut.

B. Sullivan described the locus and how the house will sit on the lot. He stated that they propose a water quality swale, not for infiltration as they had found class D soils. He explained that he and the peer reviewer, John Chessia, had done test pits and found that the top 30 ft is a type D, very tight, impervious soil. They found sand down at 30 ft and got four perks in four deep holes. He added that the system would be an expensive, 30 ft, remove and replace.

B. Sullivan stated that they are asking for a waiver for recharge, as they can't really recharge any of the runoff. He's proposing a water quality swale to attenuate the runoff and to get the TSS removal for impervious driveway. Although the site is 1.3 acres, B. Sullivan stated that his stormwater analysis had to take into account almost 20 acres of runoff, all the way up to Turkey Hill. He further described the flow of runoff and stated that his design control point was the one outlet that goes out towards East Street, an 18" pipe, which surcharges in all storms. He stated that the stormwater calculations are being reviewed by the peer reviewer through the planning board.

The erosion control plan shows some stockpile staging areas, construction entrance, construction sequencing and includes a double row of silt sock on the downhill side and a single row on the adjacent abutters' side where it's not as steep. There is a drop off from 3A and then it really drops off after the tree line down towards the bordering

vegetated wetland (BVW) at the back. B. Sullivan pointed out on the plan where the two pipes from Route 3A run to the wetlands.

Responding to questions from the Commission, B. Sullivan stated that the elevation at the Route 3A line is 71, at the foot of the wetland is 40, and the erosion controls will be at about 56-58 elevation. The water quality swale is at about 60-61 elevation; there's a spillway then a discharge off the side of it. B. Sullivan stated that it is acting both as a water quality and deceleration swale and further described it as a mini detention pond with some infiltration. There will be 24" of a perk sand filter at the bottom, it will be lined as it's near groundwater and there will be a 4" discharge pipe at the bottom of it which will discharge into the side slope and eventually into the wetland. B. Sullivan stated that there is a stone check dam on the downside of the spillway. He added that groundwater is essentially at 22-24 inches and the soil is a silt loam. Brief discussion followed regarding the depth through till to reach sand.

Responding to Commissioner questions, B. Sullivan stated that according to easement plans there seem to be some old foundation remains from the 1930s or 40s and that the lot was previously a pasture. He clarified that part of the project might need some tree removal but they did not clear the lot, it was already cleared.

Commissioner Freeman invited any comments from the public. There were no comments from the public.

Motion: Commissioner Mosher moved to continue the hearing for 156 Chief Justice Cushing Highway MA DEP 034-1349 to March 23, 2020.

Second: Commissioner Kelly

In Favor: All

Opposed: None

14 Seal Cove Road - DEP 034-1357, continued from 1/27/2020

Applicant: Leonard Monfredo

Representative: Brendan Sullivan, Cavanaro Consulting, Inc.

Proposed: Seawall restoration, filling, grading, and landscaping

Excerpts from the staff memo: This hearing is continued from 1/27/20. Since then, MassDEP has issued a file number, staff has verified that the relevant conditions from 17 Martins Cove Road (DEP 034-1336) have been added to the draft conditions below, staff has also discussed the abutter's concerns with them in greater detail, and the applicant has expanded the scope of work to include replacing the decking and railing on the existing dock.

Regarding the abutter's concerns, staff understands them to be the following: the seawall on their property will deteriorate more quickly, as a result of end scour, after the proposed improvements are carried out on the locus property. The section of the seawall in question was rehabilitated in 2009 with a permit from the Commission. The abutter stated that the quality of work was not the same on their side of the seawall, even though it was carried out by the same contractor. Additionally, the abutter is concerned that the southernmost corner of their property, which is noticeably lower than the surrounding area, will see more flooding due to the proposed work on the locus property. This concern was briefly discussed at the last meeting and the representative felt that the scope of work would not result in additional flooding. Staff relayed this new information to the representative, who provided the following written response. Photos of the abutter's property are also included below.

"As I stated at the last meeting, Mrs. Wagner's property is higher along the coastline than the applicants. No work or fill is proposed within 20 feet of the her property line other than some landscaping. No end erosion will not occur at her property, the existing jetty will dissipate any wave action prior to reaching her property. Also, wave action that would cause end erosion on her property would come from the South, the fetch for wave action is only a couple hundred feet, as opposed to miles of fetch coming onto the applicants property with waves from the West/North West.

The easement/access to the beach at the bottom the granite steps is at elevation 4+, the grade adjacent to the seawall under the applications pier is elevation 2.5+, therefore the easement /access area is not the lowest, the lowest mud flats are far away from that access. No work is proposed below the high tide line, and with the existing jetty in place I do not foresee any changes to the beach area."

Regarding the expanded scope of work, staff does not believe it will negatively impact the resource area as long as the replacement decking material meets or exceeds the existing ¾" spacing, which meets the regulations.

Meeting Documents & Exhibits: Mullins forms were submitted by Commissioners Hidell, Freeman and Mosher for 1/27/2020, Staff memo and plan "Site Plan 14 Seal Cove Road" revised 2/6/2020, and photos submitted of the wall/lawn area flooded the prior week.

Homeowner, Len Monfredo, Brendan Sullivan from Cavanaro Consulting and Lisa Swanson from Zinnia Design were present. B. Sullivan explained that he'd made some minor changes to the plan and distributed photos of the current dock, permitted in 2006 by the previous owners, and requested to change the decking and rope handrail on the dock. L. Monfredo explained that he has three young children and the existing 'handrail' is not safe. B. Sullivan stated that they would allow for 3/4" spacing between the planks.

He addressed the concerns of the abutter, Dorcas Wagner, as relayed to him by the C.O., in regards to the common access easement. He stated that there would be no work in that area and in regards to her concern about possible end erosion on her property as a result of the work on the sea wall, B. Sullivan stated that there would be none as her property is higher than the Monfredo's. There are some granite steps there and the top of the steps is at about 8.5 elevation and B. Sullivan pointed out that the low area on the Monfredo's property is at elevation 6 and the top of the wall will be maxed out at 7.5 elevation as it stands today. He added that there is really no work going on over by the beach access and there's also a small jetty that comes out just to the east side of the beach access which helps dissipate the waves. He stated that in that cove there isn't a lot of wave action coming from the southeast (*corrected from initial 'southwest' - SHS*) and into her wall that would cause any erosion.

B. Sullivan provided photos of the flooded area on the landward side of the wall just before a full moon tide event the prior week. He pointed out on the photos the area of dead grass and explained that it was about 7.5-8 elevation and that was where they were going to fill to and taper down to about 7.5. He described the elevations in that area, top of the granite step at 8.5 and the wall at 7.5, and stated that there would be no work within 15-20 ft of the property line in that area. Commissioner Hidell asked if the wall would remain a loose wall allowing water to drain naturally out. B. Sullivan confirmed it would stay a loose wall, with a landscape buffer planting in front of the wall. Commissioner Hidell stated that as long as they're leaving the wall much as it is.

B. Sullivan described the town drainage pipe that drains out at the base of the wall and that they believe that roots from a willow tree, since cut down, might have gotten in to the pipe and the pipe might also be crushed. He described leaving the stones in the mud just beyond the wall where the corrugated pipe discharges, and they will replace the pipe with either corrugated metal or probably reinforced concrete to withstand the stone on it. The town doesn't intend to replace the pipe but the homeowner is willing to.

The C.O. pointed out that in the photos, the top step of the stairs doesn't look to have a foot difference from the adjacent stonework, and yet B. Sullivan had stated that the elevation of the top step was at elevation 8.5 and the height of the seawall at 7.5. B. Sullivan responded that elevation 8 does go in and wrap around but they won't be raising the wall a foot in this area because the wall is already at 8. Discussion followed regarding the wall.

L. Monfredo stated that there's about 25 ft where it's at 8 and then it slopes down and that they are just planning on restacking it so it's properly stacked in that 25 ft closest to the easement. The C.O. confirmed that they are doing work in that area and L. Monfredo stated that they want to restack it, not raise the height, leading up to the steps.

Responding to questions, L. Monfredo and B. Sullivan explained that directly behind the wall they will be raising the grade by about a foot and putting in peastone and landscaping. L. Monfredo further explained that they would be bringing in fill, then loam, and then right behind the beds there will be beds with peastone for the landscaping. Commissioner Hidell commented that it will always flood in there; the water will seep in there and come up. B. Sullivan stated that they are going to raise the grade and hope to alleviate some of that. B. Sullivan pointed out the dead grass in the photo and stated that was approximately at elevation 7.5 and they're going to bring that to elevation 8. Commissioner Hidell suggested that it's likely not dead grass but rather some type of salt grass growing but regardless, they are not rebuilding the wall and the salt water is going to penetrate the wall and gravel and expressed his skepticism that any plantings would survive. Commissioner Mosher agreed. B. Sullivan and L. Monfredo stated that the landscape architect, L. Swanson, had experience with coastal plantings.

Commissioner Freeman invited any comments from the public. With no comments from the public, Commissioner Freeman closed the hearing to public comment.

Motion: Commissioner Mosher moved to issue an Order of Conditions for the proposed work at 14 Seal Cove Road (DEP 034-1357), as shown on the submitted plans, and adopt the findings of fact a and b, and special conditions 1 through 22 of the staff report.

Findings:

- a. The project meets the submittal requirements for issuance of an Order of Conditions under the Wetlands Protection Act (M.G.L. c. 131, § 40) and the Town of Hingham Wetland Regulations.
- b. The work described is within an area subject to protection under the Wetlands Protection Act (M.G.L. c. 131, § 40) and the Town of Hingham Wetland Regulations, and will not alter or adversely affect the area subject to protection under the Act or the Regulations.

Conditions:

1. The applicant shall notify the Hingham Conservation Commission in writing of the name, address, and telephone number(s) of the project supervisor or contractor who shall be responsible for ensuring compliance with this Order and shall notify the Commission, by telephone or writing, at least 48 hours prior to commencement of work on the site.
2. This document shall be included in all construction contracts and subcontracts dealing with the work and shall supersede all other contract requirements.
3. The project supervisor or contractor in charge of the work shall have a copy of this Order available on the site at all times.
4. Prior to the start of any excavation or construction, there shall be a pre-construction conference on the site between the project supervisor or contractor responsible for the work and an agent of the Commission to ensure that the requirements of this Order are understood.
5. Prior to the start of any excavation or construction, erosion and sediment controls shall be installed, as shown on the final approved plan, and inspected by an agent of the Commission; straw wattles and/or hay bales will not be used as a form of erosion or sediment control.
6. Erosion and sediment controls shall remain in place until all disturbed or exposed areas have been stabilized with a final vegetative cover or the Commission has authorized their removal.
7. The applicant shall notify the Department of Public Works, by telephone and writing, at least one (1) week prior to the commencement of any excavation or construction in the drainage easement.
8. During all phases of construction, all disturbed or exposed areas shall be brought to a finished grade and either
 - a) loamed and seeded for permanent stabilization, or
 - b) stabilized in another way approved by the Commission.
9. Any debris, which falls into any resource area, shall be removed immediately by hand.
10. Any on site dumpsters shall not be located within 100 feet of the Coastal Bank.
11. There shall be no stockpiling of soil or other materials within 25 feet of the Coastal Bank.
12. Issuance of these conditions does not in any way imply or certify that the site or downstream areas will not be subject to flooding, storm damage, or any other form of damage due to wetness.
13. No vehicle or other machinery, refueling, lubrication or maintenance, including concrete washout, shall take place within 100 feet of the Coastal Bank.
14. All work, with the exception of installing the new drainage outlet, shall take place from the landward side of the Coastal Bank.
15. No mechanical equipment shall be allowed in the resource areas, with the exception of Land Subject to Coastal Storm Flowage.
16. No mortar shall be used in the repair of the existing seawall.
17. The material used to replace the decking on the existing dock shall include a gap of at least 3/4 inch in between each plank. The Commission may approve alternate spacing if the material selected provides a similar or greater degree of light penetration.
18. Before executing any change from the plan of record, the applicant must have the Commission's written approval. Any errors found in the plans or information submitted by the applicant shall be considered as changes. Approval from other Town Agents or Inspectors does not relieve the applicant from obtaining approval from the Commission.
19. The use of pesticides, herbicides, and fertilizers shall be prohibited on this property because of its proximity to Hingham Harbor, which is a state-listed 303(d) impaired waterway, and the importance of the surrounding resource areas to water quality and sensitive coastal and marine habitats. This condition shall apply in **perpetuity** and shall not expire with the issuance of a Certificate of Compliance.

20. The applicant shall apply for a Certificate of Compliance as soon as work has been completed and prior to the expiration of this Order. If work cannot be completed prior to the expiration of this Order, the applicant shall contact the Commission in writing to apply for an extension at least thirty days prior to the expiration date.
21. The applicant shall submit an “as built” plan to the Commission upon completion of this project. The plan shall be signed by the professional engineer of record, who shall certify that the work has been done in accordance with the approved plans and this Order. This plan must be submitted prior to the issuance of a Certificate of Compliance by the Commission.
22. Prior to the issuance of a Certificate of Compliance, the plantings identified on the final approved plans shall survive at least two full growing seasons with a minimum of 75% survival rate.

Second: Commissioner Hidell

In Favor: All

Opposed: None

18 Smith Road – DEP 034-1358

Applicant: Falconeiri Construction

Representative: Brad Holmes, ECR, LLC

Proposed: Demolition and reconstruction of single family home

Excerpts from the staff memo: Staff visited the site on 1/29/20. The wetlands were flagged by a wetlands consultant in October 2019 and staff agrees with the delineation, however staff recommends making no finding given that the wetlands are off property. Besides the existing structures, the site contains a large lawn area surrounded by trees, small wooded areas, and overgrown landscape shrubs. An old fence encloses this area with woods and the wetland beyond. A significant amount of dumping and manmade debris was observed behind the fence.

Staff relayed a number of comments to the representative and received a written response on 2/4/20 (see attached) and a revised plan on 2/5/20. Staff’s remaining comments for the Commission’s consideration are as follows:

- **Floodplain.** *Bordering Land Subject to Flooding is located on the property and is shown on the plans as a graphical representation of the FEMA flood zone boundary, as opposed to being based on site specific topography. Since it is a Zone A, there is no Base Flood Elevation. All work is proposed outside of the mapped floodplain, with the exception of the shed removals and replacement fence. Staff notes that the site slopes very gradually towards the floodplain and wetlands with no clear topographical distinction. Staff also notes that FEMA is considering an adjustment to this particular Zone A polygon, per a current Workmap, as part of their restudy of the Charles Watershed. The draft polygon is smaller than what is currently depicted as the flood zone boundary.*
- **Structures in the 100ft buffer zone.** *No specific mitigation is proposed, however the representative indicates that mitigation could be proposed with native plantings. Staff recommends a 1:1 ratio of mitigation area within the 100ft buffer zone in keeping with other filings where the Commission has required mitigation for work in the 100ft buffer zone. Mitigation plantings could also address the tree policy since one mature Black Oak is proposed to be removed.*
- **Rooftop runoff.** *Half of the roof leaders are proposed to be directed to subsurface infiltration chambers. Assuming this would capture at least half of the rooftop runoff in the 100ft buffer zone (2405 proposed/2 = 1202.5 sf), this would cover the increase in impervious surface in the 100ft buffer zone due to the new house (2405 proposed – 1690 existing = 715 sf). Staff recommends conditioning that remaining roof leaders be directed to lawn areas.*
- **Driveway runoff.** *No mitigation is proposed for driveway runoff. An existing driveway is being converted from a gravel surface to a paved surface. Only a portion of the driveway is within the 100ft buffer zone. The Commission will have to determine whether or not to require mitigation.*

Meeting Documents & Exhibits: *Staff memo, plan “Site Plan 18 Smith Road - Hingham” dated 1/8/20, and letter from abutter at 14 Smith Road*

Representative Brad Holmes was present and gave an overview of the proposal to demolish the existing house and build a new single family home. He explained that there is a large wetland system off to the south. They would be reconstructing in the general footprint of the current house, with a new driveway and new septic system. All proposed

work is outside the 50 ft buffer. B. Holmes pointed out on the plan where they are proposing a patio, steps and the proposed location of the driveway.

B. Holmes explained that they had made some changes based on the comments in the staff memo. He stated that there is one tree proposed for removal, a large black oak at the rear of the existing house and they propose replacement trees.

B. Holmes stated that he'd also seen the letter from the abutter at 14 Smith Road expressing concern regarding the rooftop runoff and driveway runoff. They have proposed a roof infiltrator unit at the back of the house to handle some of the roof runoff. The new asphalt driveway would be pitched for water to run back to the street which is lower than the driveway. B. Holmes stated that the runoff would go to the street where it would presumably run to a catch basin and eventually back to the wetland.

B. Holmes stated that have proposed mitigation plantings and have a native planting list that can be selected from to use native plantings within the foundation plantings.

The Commission discussed the pitch of the driveway, elevations and grading and concluded with the suggestion that the driveway be lined with a berm in order to keep the runoff from the neighboring property.

Describing the roof run off, B. Holmes explained that at least half of the roof drainage would go into the infiltrator unit, however due to site constraints the front roof run off would not. He stated that there would be gutters on the right side of the house and he assumes there would be also gutters on the front. Discussion followed regarding the possibility of using a gravel drip strip and no gutters in the front and B. Holmes stated that it would be fine to include that as an option in the conditions. Further discussion concluded with the option that if gutters are to be used, the water be directed to a gravel strip/trench rather than to a splash pad.

The C.O. stated that the draft condition regarding mitigation plan prioritizes the areas closest to the wetland for native planting. If they don't want to incorporate native plantings into the foundation plantings, she suggested, with the removal the two sheds, debris removal and fence replacement, there is an opportunity to put plantings closer to the back, fulfilling that condition.

Commissioner Freeman invited any comments from the public. There were no comments from the public.

Motion: Commissioner Hidell moved to issue an Order of Conditions for the proposed work at 18 Smith Road (DEP 034-1358), as shown on the submitted plans, and adopt the findings of fact a through c, and special conditions 1 through 24, as amended, of the staff report.

(conditions below reflect the change made to draft condition #17 and the addition of condition #24)

Findings:

- a. The project meets the submittal requirements for issuance of an Order of Conditions under the Wetlands Protection Act (M.G.L. c. 131, § 40) and the Town of Hingham Wetland Regulations.
- b. The work described is within an area subject to protection under the Wetlands Protection Act (M.G.L. c. 131, § 40) and the Town of Hingham Wetland Regulations, and will not alter or adversely affect the area subject to protection under the Act or the Regulations.
- c. For the purpose of this filing, the Commission makes no finding as to the exact boundaries of the wetland resource areas or the Bordering Land Subject to Flooding on site.

Conditions:

1. The applicant shall notify the Hingham Conservation Commission in writing of the name, address, and telephone number(s) of the project supervisor or contractor who shall be responsible for ensuring compliance with this Order and shall notify the Commission, by telephone or writing, at least 48 hours prior to commencement of work on the site.
2. This document shall be included in all construction contracts and subcontracts dealing with the work and shall supersede all other contract requirements.
3. The project supervisor or contractor in charge of the work shall have a copy of this Order available on the site at all times.
4. Prior to the start of any excavation or construction, there shall be a pre-construction conference on the site between the project supervisor or contractor responsible for the work and an agent of the Commission to ensure that the requirements of this Order are understood.

5. Prior to the start of any excavation or construction, erosion and sediment controls shall be installed, as shown on the final approved plan, and inspected by an agent of the Commission; straw wattles and/or hay bales will not be used as a form of erosion or sediment control.
6. Erosion and sediment controls shall remain in place until all disturbed or exposed areas have been stabilized with a final vegetative cover or the Commission has authorized their removal.
7. Prior to the start of any excavation or construction, a mitigation planting plan shall be submitted to the Commission for review and approval. The planting plan shall include a minimum of 715 square feet of native plantings, including a mix of trees and shrubs. Locations closest to the resource areas shall be prioritized for planting. All mitigation plantings shall be native species; no cultivars, non-native species, or invasive species shall be allowed. In accordance with the Commission's Tree Removal and Replacement Policy (adopted 11/4/19), the planting plan shall include one, minimum 1.5-2 inch caliper, Black Oak (*Quercus veluntina*) mitigation tree planting.
8. During all phases of construction, all disturbed or exposed areas shall be brought to a finished grade and either a) loamed and seeded for permanent stabilization, or b) stabilized in another way approved by the Commission.
9. Any debris, which falls into any resource area, shall be removed immediately by hand.
10. All lawn waste, brush, leaves, or other materials dumped in any resource area, including the buffer zone, shall be removed, and the practice discontinued, in accordance with Section 23.6 of the Hingham Wetland Regulations. This includes all manmade debris behind and inside the existing fence at the rear of the property.
11. All tree debris shall be properly disposed of at an off-site location; no chipped or mulched material shall remain on the property.
12. Any on site dumpsters shall not be located within 50 feet of any resource area.
13. There shall be no stockpiling of soil or other materials within 50 feet of any resource area.
14. Issuance of these conditions does not in any way imply or certify that the site or downstream areas will not be subject to flooding, storm damage, or any other form of damage due to wetness.
15. Any dewatering activities on the project in which water will be released into any resource area or storm drain shall make use of a stilling pond or similar device to remove sediment before the water is released.
16. No vehicle or other machinery, refueling, lubrication or maintenance, including concrete washout, shall take place within 100 feet of any resource area.
17. Rooftop runoff for at least half of the new house shall be infiltrated on site, using infiltration chambers, as shown on the final approved plan. Alternative methods of infiltration may be allowed with prior approval from the Commission. Remaining runoff shall be directed to downspouts with stone trenches for scour protection, or if not using gutters, to drip edge stone trenches.
18. The mitigation planting area shall be constructed and planted in accordance with the approved planting plan and supporting documents. The mitigation planting area shall be left as naturally vegetated and shall not be maintained as lawn or landscaped area. This condition shall apply in **perpetuity** and shall not expire with the issuance of a Certificate of Compliance.
19. Before executing any change from the plan of record, the applicant must have the Commission's written approval. Any errors found in the plans or information submitted by the applicant shall be considered as changes. Approval from other Town Agents or Inspectors does not relieve the applicant from obtaining approval from the Commission.
20. It is the sole responsibility of the owner of record to maintain drainage structures at all times. This condition shall apply in **perpetuity** and shall not expire with the issuance of a Certificate of Compliance.
21. The applicant shall apply for a Certificate of Compliance as soon as work has been completed and prior to the expiration of this Order. If work cannot be completed prior to the expiration of this Order, the applicant shall contact the Commission in writing to apply for an extension at least thirty days prior to the expiration date.
22. The applicant shall submit an "as built" plan to the Commission upon completion of this project. The plan shall be signed by the professional engineer of record, who shall certify that the work has been done in accordance with the approved plans and this Order. This plan must be submitted prior to the issuance of a Certificate of Compliance by the Commission.

23. Prior to the issuance of a Certificate of Compliance, the mitigation area plantings shall survive at least two full growing seasons with a minimum of 75% survival rate. If a 75% survival rate is not achieved, replacement plantings of the same species shall be made by the applicant.
24. A cobble curb shall be installed on the south west side of the driveway.

Second: Commissioner Kelly **In Favor:** All **Opposed:** None

2 Beach Lane – DEP 034-1359

Applicant: Theodore Sharp

Proposed: Demolition and reconstruction of single family home

Excerpts from the staff memo: Staff made a site visit on 2/3/20. The wetland resource areas were not delineated in the field, however resource areas, including coastal bank, coastal beach, and salt marsh, were previously approved under an Order of Conditions (DEP 034-1330) issued in March 2019. Staff included some pertinent information regarding that approved project at the end of this memo. No work was done under the Order, which has since been closed out, so the majority of the lot remains as it was previously.

The lot is mostly level and set lower than the surrounding properties. A low stone wall runs along the western side of the property, and a stone and vegetated revetment runs along the northern side of the lot, with the wetland resource areas beyond. The lot previously contained a number of scattered trees and mature shrubs, which were recently removed without Conservation permission. Staff observed that within the 100ft buffer zone, at least four trees and several shrubs were removed. Two trees appear to be within the 50ft buffer zone. A silt fence has already been installed around most of the lot, however it would need to be repaired and fully trenched prior to any work proceeding.

Staff relayed a number of comments and questions to the applicant:

- *Erosion controls need to be added to the plan, along with a detail.*
- *It would be helpful to have a breakdown of the size of the existing vs proposed house, deck and porch, as well driveway and walkways.*
- *There is a significant amount of new structure being proposed particularly within the 50ft buffer zone, which is a no disturb zone. The Commission seeks to avoid and then minimize structures and activities in this buffer zone in accordance with their bylaw and regulations. In cases where the Commission allows some activity in this buffer, they seek mitigation, typically at a 2:1 ratio of native plantings or restored areas. Have you considered a smaller size or different orientation for structures? And have you considered mitigation for the additional encroachment into the buffer zone? It appears that it would be difficult to even achieve a mitigation area of the typical size in the current proposal.*
- *The regulations also prohibit expansions of existing structures in VE zones, though I think having as much of the structures on piers and sonotubes as possible as you've proposed will be a real positive and the Commission will factor this in.*
- *How are you managing rooftop runoff, particularly given the increase in impervious area?*
- *Similarly, how are you managing runoff from the outdoor shower?*
- *Please provide a detail or any information you may have on the driveway pavers, subbase, etc. if available.*
- *What is the purpose of the trench drain proposed along a portion of the driveway and porch and what runoff is being directed there?*
- *Are you proposing a culvert under the driveway (as I know this came up previously as a possibility)?*
- *The garage flood vents need to also be shown on the site plan and architectural plans.*
- *Are you proposing any work on the revetment at the rear?*
- *Are you replacing or changing the block wall on the west side of the property? If so, please explain and provide materials/dimension/height for any proposed wall.*
- *Do you have a planting plan or list? How will the area be landscaped or otherwise vegetated? You should also be aware the Commission has a Tree Removal and Replacement Policy, which will apply if any trees equal to or greater than 6" diameter at breast height (dbh) are being removed (or have been removed recently). I attached the policy for your information.*

Staff subsequently met with the applicant to discuss these comments in more detail. As of 2/6/20, no formal response or revised plan has been received, however the applicant indicated they would be adding erosion controls, providing size

calculations, directing rooftop runoff to stone under the house, infiltrating outdoor shower runoff, and addressing some of the other comments and questions. Also, as of 2/6/20, MassDEP has received the filing, but has not yet issued a file number.

Meeting Documents & Exhibits: Staff memo, site plan "Proposed Site Plan" dated 2-7-2020, "Existing Site Plan" dated 2-7-2020, Foundation Plan set numbered S.1.1, S2.1-S2.3 dated 1/24/2020, and an emailed letter submitted that day from an abutter. T. Sharp was provided with the letter at the meeting.

Theo Sharp was present and gave an overview of the proposal, acknowledging that it would be continued as it was proving more difficult than expected to compare numbers from the previously approved proposal to the new proposal, in terms of pervious or impervious. He also stated that he would have to look into the comments from the abutter letter. The C.O. briefly reminded the Commission of the prior approved plan and explained that project was never constructed and T. Sharp purchased the property and this was a new plan from scratch.

T. Sharp stated that it seemed that one of staff's main concerns with the proposal is the size of the house within the 50 ft buffer. He stated that, as compared to the prior proposal, he believes that his project will have just about the same amount of impervious, if not a little less. He added that the house is about the same size house, the driveway will be using pervious pavers and his deck will be a little bit bigger. They've situated the house on the west side of the lot and made it more square than long. That has caused it to encroach a little more into the 50 ft buffer zone but also exposes less of the house to water coming in.

T. Sharp explained that they've put the whole house on piers save one garage wall, a foundation wall with flood vents, where it faces the water and there will be flood vents out the side as well. Responding to questions from the Commission, T. Sharp stated that the elevation of the piers would be 10 ft and then 12" timbers, and then joists on top of that and confirmed that it would be open except for the garage wall.

T. Sharp stated that the design leaves the entire right side of the lot free for water to come all the way back to the street. There would be some grading for the driveway. He noted the storm drains that back up due to water also running down Wompatuck Road during storms. They will grade the driveway such that if water goes up driveway, it will run off to the side and under the house.

T. Sharp asked the Commission for their thoughts or concerns regarding that there is more building going within the 50 ft buffer than in the last approved proposal. He pointed out that on the photos of the lot, the whole area on the front and side is all disturbed and there is a three foot wall between the resource area and the lot. He stated he would like to work with Loni on mitigation, be it native planting or other, and that the whole 30 ft on the side can be used for mitigation, it could go from the front to the back.

The C.O. stated that from staff's perspective, the different approach to the foundation is a major win. She further described continuing to work with T. Sharp regarding the footprint, proximity to the resource area and mitigation.

Responding to questions from the Commission, T. Sharp described the 19 piers and the Commission examined the foundation plans. Asked about fill, T. Sharp explained that there would be fill at the driveway to bring it to the garage which would be slab. He added that it is 8 ft elevation at the top of the driveway and elevation 10 at the garage so a couple feet of fill. The C.O. stated that they'd been discussing a possible culvert or pass-through underneath to allow water to flow and stay on the lot. The driveway would be pervious pavers.

T. Sharp will return to the Commission with adjustments to the plan.

Commissioner Freeman invited any comments from the public. There were no comments from the public.

Motion: Commissioner Kelly moved to continue the hearing for 2 Beach Lane, MA DEP 034-1359 to February 24, 2020

Second: Commissioner Mosher **In Favor:** All **Opposed:** None

Other Business

a. Discussion of agricultural license agreements, 2020-2023 renewal

Commissioner Freeman stated that she had spoken to John Hornstra and expressed her concerns. He said that he wasn't sure which herbicides would be used until they do an evaluation of what the weeds were from the fall, but would inform the C.O. what they are. Commissioner Freeman stated that he had explained to her that the treatment is so less intense than what would be put on a lawn to remove grubs or weeds. He said that it is super mild and is gone in 3-4 days. He told her of the work that he had done to the soil to

make it possible to grow crops; and he says that this is only way to do it, even to grow hay, as it targets dandelions or broadleaf weeds. Commissioner Freeman stated that she doesn't have a reason to hold it up and she felt more comfortable after speaking with him. She stated that she had also reached out to Norwell, where Hornstra also farms, and received the Conservation Agent, Nancy's opinion of John Hornstra as being very conscientious.

The C.O. stated that she has current plan for the upcoming year, complicating that slightly is that the current license agreement expires at the end of March so it doesn't cover the full upcoming growing season. With the issue resolved, the C.O. stated that she could have Town Counsel review and mark up a new 3 year agreement. The C.O. asked if the Commission wanted to see any changes to the license agreement and gave an example of J. Hornstra reporting what herbicides, if any, get used on the fields. The C.O. noted that he includes some in his plan but it is to cover his bases that, in a worst case scenario, those are what he would use. Commissioner Freeman suggested that he wouldn't be spending the money on something if he doesn't feel he needs to and the Commission has given him permission. She added the Commission is just conceding back for now that this is how farmers in this area need to manage fields.

Commissioner Freeman adjourned the meeting at 9:45 pm.

Submitted, _____
Sylvia Schuler, Administrative Secretary

Approved on February 24, 2020

Meetings are recorded. To obtain a copy of the recording, please contact the Conservation Office.