



## CONSERVATION COMMISSION MEETING MINUTES – June 1, 2020

**Present:** Laurie Freeman-Chair, Jacqueline Zane-Vice Chair, Bob Hidell, John Mooney, Bob Mosher, Thomas Roby, and Crystal Kelly-Commissioners, Loni Fournier-Conservation Officer and Heather Charles-Lis-Assistant Conservation Officer

**Absent:** None

The remote meeting was held via Zoom with Dial in #929-205-6099, Meeting ID # 897-6954-3623.

### **The meeting was called to order at 7:05 PM.**

Chair Freeman began the meeting with a statement that the Conservation Commission meeting was being held remotely via the Zoom app in accordance with the Governor's order Suspending Certain Provisions of the Open Meeting Law for purposes of social distancing. The information for joining the meeting by audio/video was posted with the Commission's agenda on the website along with web links for accessing any plans or other materials relevant to the items scheduled on the agenda. She advised that, in accordance with the Open Meeting Law, the meeting was being recorded by the town and if any participant wished to record the meeting, to notify her so that she may inform all other participants. No participants expressed a wish to record the meeting.

### **Approval of Minutes**

**Motion:** Chair Freeman moved to approve the draft minutes from the May 18, 2020 meeting.

**Second:** Vice Chair Zane

**Roll Call:** Comm'r Hidell: aye, Comm'r Kelly: aye, Comm'r Mooney: aye, Comm'r Roby: aye

### **Certificates of Compliance**

**168 South Pleasant Street** – DEP 034-1328

Applicant: Matthew and Heather Bastardi

Representative: Deborah Keller, Merrill Engineers and Land Surveyors

*Meeting Documents & Exhibits: Staff memo and As-built Plan 4/30/20*

*Excerpts from the staff memo: An Order of Conditions was issued in December 2018 for the construction of an inground swimming pool, patio, and associated site grading. In February 2019, staff approved several minor changes to the final approved plan: 1) the proposed retaining wall was replaced with a 3:1 slope, to be stabilized with loam and seed, 2) in turn, a portion of the proposed pool fence was moved to the toe of slope, 3) the pool equipment was moved from the western to the eastern side of the house and 4) a pear tree in poor health was removed and replaced with six trees of the same species. The as-built plan largely adheres to the final approved plan with these field changes. Finally, the full scope of mitigation (835sqft) was not completed because the structure that required the mitigation, the retaining wall, was not built. Approximately 400sqft of mitigation was completed anyway and staff asked the applicant to install a temporary straw wattle for erosion control until the native wildflower seed mix stabilizes the area.*

Applicant Matthew Bastardi was present on the call. Chair Freeman summarized the work that was done.

**Motion:** Chair Freeman moved to issue a Certificate of Compliance for 168 South Pleasant Street, MA DEP 034-1328.

**Second:** Vice-Chair Zane

**Roll Call:** Comm'r Hidell: aye, Comm'r Kelly: aye, Comm'r Mooney: aye, Comm'r Roby: aye

### **Request for Determination of Applicability**

**328 Rockland Street**

Applicant: Ann Marie Taglieri

Proposed: Demolition of shed and construction of deck and patio

*Meeting Documents & Exhibits: Staff Memo, Narrative and Original Plot and Deck Plans*

Excerpts from the staff memo: Staff visited the site on 5/26/20. The property is fairly flat and the rear portion is dominated by salt marsh. The resource areas were not flagged, however the limit of the marsh was clear (and demarcated by a row of shrubs). Additionally, the portion of the perennial stream, known as Turkey Hill Run, closest to the proposed work was channelized with stone. The existing shed is in poor condition and the surrounding area is maintained as lawn.

The submitted plans depict a two-tiered deck, with the upper level connecting directly to the existing house. The applicant has indicated that they would like to replace the lower level deck, as shown in the plans, with a patio. A set of stairs would lead from the deck to the patio. The deck would require three new posts, set on helical piles. It is not known what the surface treatment would be **under the deck**, for example crushed stone or some other material. As of 5/27/20, a patio material had not been selected, but the applicant has indicated that they are willing to select a permeable material. The exact location for the stairs has also not been determined, but revised plans are anticipated.

Buffer Zone. Staff recommends a **permeable paver** for the patio and **reducing the patio depth** by one foot, so that it does not extend any closer to the marsh than the existing shed (the outer wall of the shed is approximately 14ft from the rear wall of the house). Staff also recommends **native plantings** to mitigate for the new structure proposed within the 50ft buffer zone, which is estimated to be 150sqft (total). Recently, the Commission has asked for mitigation at a 2:1 ratio, however the available area on this property may be limited. Staff recommends discussing the **feasibility of 300sqft of mitigation** with the applicant; a row or cluster of shrubs along the limit of the marsh and the top of stone wall/streambank would be ideal.

Riverfront Area. If there is an appropriate improvement to the Riverfront Area and naturally vegetated areas are extended to the maximum extent feasible, then this project would meet the performance standards for both new development and redevelopment, with the key points being that a structure (the shed) already exists within the limit of work, the surrounding area is lawn, the proposed work would not exceed the development thresholds (10% or 5,000sqft, whichever is greater), mitigation at a 2:1 ratio is being contemplated and would likely be located in the Inner Riparian Zone, and the proposed work is not located any closer to the perennial stream than the existing house. The regulations require an alternatives analysis, however staff does not feel that one is necessary in this case, as the improvements are being proposed in the most suitable location on the property, given the applicable resource area restrictions and zoning setbacks.

Flood Zone. In terms of flood zone impacts, staff feels that the combination of an elevated structure and an at-grade patio is an improvement over the existing shed and, ultimately, the impacts of three posts would be de minimis. Staff recommends that the **proposed stairs be open**, as opposed to a solid concrete block.

Staff has no concerns related to the proposed light poles.

Chair Freeman summarized the resource areas and the proposal. Applicant Ann Marie Taglieri and friend and contractor Gerry Kiley, were present on the call. A. Taglieri clarified that it would not be a 'patio' for the lower section that it would be a 'lower deck' in the location of the existing shed. G. Kiley described that the decks would be two tiers; the upper tier at the level of the first floor, about 4 ft off the ground and the lower tier would be about 9 inches off the ground to protect from salt water elements. He added that they would be using helical piles into the ground. A. Taglieri confirmed that in the highest tides it does flood back there and comes up to the shed.

G. Kiley explained that the decks would extend to the same distance as the shed from the back of the house however, the applicant would like to make the deck almost the same width as the house resulting in narrow but longer decks. G. Kiley stated that they had wanted to do one level low to the ground but access to a crawl space is needed and therefore they thought to terrace down. There would be a door at the back out to the upper level and the lower portion of the deck would be framed and off the ground lower than a foot. Discussion followed with some clarification regarding stair access to the two decks and the proposed location change of the existing entrance. G. Kiley suggested he could submit a drawing with further details.

The Commission and applicants discussed the issues raised in the staff memo. G. Kiley clarified that there would be no 'patio'; it would all be decking. In regards to the extent of the lower deck, the applicant was amenable to pulling the lower deck back one foot to stay within the footprint of the shed. G. Kiley explained that they had hoped to make the deck a size that made sense, 6 ft for the upper tier and 9 ft for the lower tier to accommodate a chaise. The CO explained that the measurement from the rear wall of the house to the outer wall of the shed is 14 ft and she felt that, if the Commission agreed, that the applicant would be limited to 14 ft from the house. The CO briefly described the wetland resources affecting the lot, the setbacks from those and regulations. G. Kiley suggested that they could hold the footings back and cantilever a couple feet within the frame. The CO asked if they would consider a single level deck that

would provide the needed space and could be 20 ft by 14 ft. Discussion followed regarding the possibility of a single level elevated deck. A. Taglieri explained that the idea of a 2 tier deck had been more aesthetically pleasing to her and it would be her wish to stay with that. Further discussion followed with the Commission considering the footprint as well as the flood zone impacts in regards to a 2 tier deck versus a single elevated deck with the general consensus being that a single elevated deck would be the best way forward.

The CO explained that there would be a slight expansion of structure; the deck proposed is wider than the existing shed by an additional 150 sf, and that is where the proposed mitigation values came from in staff memo. Further discussion followed regarding the flood zone regulations, expansion and a single level deck on pilings. The CO commented that replacing a 4 walled shed that is an obstruction to floodwaters with an elevated structure is, in her opinion, a benefit and that an expansion, with an elevated structure, is a benefit to this property. Commissioner Hidell agreed that it mitigates the potential environmental impact as opposed to putting a deck a foot off the ground. The ACO added that with the inner riparian riverfront standard there needs to be some improvement to the riverfront area, in addition to a required stormwater improvement which would be covered by the change to a permeable decking surface, there needs to be some extension of naturally vegetated areas and that could be met with some native plantings.

Discussion followed regarding the process going forward with the applicant agreeing to resubmit revised plans including the location of the steps, native plants locations and an elevation drawing showing the proposal in relation to the ground. Responding to a question, G. Kiley described the stairs as wood frame stairs and open underneath.

**Motion:** Chair Freeman moved to continue consideration of 328 Rockland Street to June 15, 2020.

**Second:** Vice-Chair Zane

**Roll Call:** Comm'r Hidell: aye, Comm'r Kelly: aye, Comm'r Mooney: aye, Comm'r Mosher: aye, and Comm'r Roby: aye

### **15 Ocean View Drive**

Applicant: Patrick Malone

Proposed: Construction of deck extension and patio

*Meeting Documents & Exhibits: Staff Memo, Narrative, Original Plot Plan, and Original Deck and Patio Plan*

*Excerpts from the staff memo: Staff visited the site on 5/26/20. The rear of the property gently slopes down towards the wetland, which was not flagged, however the limit was clear based on the topography and existing vegetation. The existing deck is constructed on sonotubes, with the existing staircase resting on a small concrete slab. The area under the existing deck consists of crushed stone, which is contained by several very short wood retaining walls. The surrounding area is maintained as lawn and landscaping beds.*

*Staff noted that since the last filing and site inspection for this property, in 2016 under a different owner, a fence was installed around the perimeter of the backyard, a portion of which is located within Land Subject to Coastal Storm Flowage (Flood Zone AE, el. 10). The majority of the fence consists of wood frame panels with a relatively wide wire mesh insert. Staff did not observe any negative impacts to the resource area as a result of the installation and it is likely that this style of fence would allow more floodwater to pass through than other design alternatives. The fence does not appear in a 2018 aerial image of the property, so the Commission could require an **after the fact filing and/or mitigation**, if desired.*

*In terms of the current proposal, the applicant estimates that approximately three new **footings** would be required for the deck addition. They are also open to continuing the use of crushed stone **under the deck**, but would prefer a different material that would make it safer to use the space, and are open to recommendations. (Staff recommends crushed stone, but a permeable paver may also be suitable.) A **patio material** has not been selected, but again the applicant is open to recommendations. (Staff recommends a permeable paver.) Finally, the fire pit would not be connected to any new or existing gas lines.*

*Staff recommends that the Commission discuss the above design aspects with the applicant and reach an agreement so that the applicant can submit revised plans. Additionally, based on the more recent mitigation requirements for new structures in the 50ft buffer zone, at a 2:1 ratio, staff recommends that the Commission discuss the **feasibility of a 400sqft mitigation area** with the applicant. (Staff recommends the installation of native plantings.)*

Chair Freeman summarized the resource areas and proposal. Patrick Malone was present on the call and described his proposal as expanding a single level deck by 200 sf, not encroaching any further towards conservation, entailing approximately 3 footings and the staircase would mirror an existing staircase and flow into a 10 ft by 15 ft

pervious paver patio area on the lawn. Responding to a questions, P. Malone stated that currently there is crushed stone under the deck and they would like to change that to the same pervious pavers used for the patio.

P. Malone confirmed that they were amenable to installing 400 sf of mitigation plantings, that they would be native plantings and they would welcome suggestions.

There was brief discussion regarding crushed stone and the pervious paver, with Commissioner Hidell suggesting a layer of crushed stone under the pervious pavers to aid in absorption of runoff. P. Malone agreed. Clarification of the size of the crushed stone followed.

The CO stated that it would be helpful to have all components on a revised plan so staff can see and verify the number of footings needed, have specifications on patio materials and depict what would be under the deck. She stated that P. Malone could work with office staff to decide on an area where mitigation plantings could go and that would also be included on a revised plan. The CO pointed out that the first condition in the list of conditions calls for submittal of a revised plans. P. Malone gave a brief description of some of the known materials and stated he will check with the contractor for the spacing of the decking and will include on the plan. Commissioners and staff had no further comment.

**Motion:** Chair Freeman moved to issue a Negative Determination of Applicability for the proposed work at 15 Ocean View Drive and adopt the findings of fact a through c, and conditions 1 through 7 of the staff report.

Findings:

- a. This project meets the requirements of Part 1, Section 7.1 of the Town of Hingham Wetland Regulations governing procedures for a Request for Determination of Applicability.
- 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 wetland resource areas on site.

Conditions:

1. Prior to the issuance of a Building Permit, a revised plan shall be submitted to the Commission, detailing the dimensions, materials, and construction methods for the deck, patio, and stairs. A planting plan shall also be submitted to the Commission, specifying the location and quantity of native species (no cultivars, non-native, or invasive species) selected for the mitigation area. Both plans shall be subject to approval by the Commission.
2. Prior to the issuance of a Building Permit, erosion and sediment controls shall be installed; straw wattles and/or hay bales shall not be used as a form of erosion or sediment control.
3. 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.
4. Any debris, which falls into any resource area, shall be removed immediately by hand.
5. No vehicle or other machinery, refueling, lubrication or maintenance, including concrete washout, shall take place within 50 feet of any resource area.
6. Prior to the issuance of an Occupancy Permit, the mitigation area plantings shall be installed.
7. The Conservation Department shall be notified to any changes in plans prior to proceeding with said changed plans.

**Second:** Vice-Chair Zane

**Roll Call:** : Comm’r Hidell: aye, Comm’r Kelly: aye, Comm’r Mooney and Comm’r Mosher: aye; Comm’r Roby

Chair Freeman read the Public Hearing Notice of Intent statement followed by clarification of timelines under the emergency order. “Please be advised that under the emergency order entered by Governor Baker, statutory timelines for the permitting process have been suspended or tolled and are now extended 45 days after the state of the emergency. While we are permitted under this order to suspend our business until the order is lifted, I, the Chair, in consultation with the Conservation office staff determined to continue processing applications and holding public hearings remotely via zoom such as the meeting tonight, and we are attempting to follow the normal statutory and regulatory deadlines to the extent possible under the current conditions. With regard to appeals, applicants need to be aware that due to suspended or tolled timelines, the appeal window for DEP and abutters may be extended. If you have further questions regarding the appeals process under the current emergency order please contact the conservation office.”

## **Notices of Intent**

**12 Martins Lane** – DEP 034-1363

Applicant: Jonathan & Angela Weber

Representative: John Cavanaro, Cavanaro Consulting and Sean Papich, Landscape Architect

Proposed:

*Meeting Documents & Exhibits: Staff memo, Landscape Plan 5/27/20 and Revised Site Plan 5/28/20*

*Excerpts from the staff memo: This hearing is continued from the 5/18/20 Commission meeting. The representatives were asked for additional information on the proposed pool, specifically the amount of water that would have to be discharged as part of the routine maintenance, whether that water would have any chemicals in it, and what type of filtration system would be used that could reduce the amount of chemicals needed to maintain the pool. After discussing drywells for the proposed garage, a new location for the proposed fence, and the desire for mitigation, revised plans were also anticipated.*

*Staff spoke with the representatives on 5/27/20 and learned that the proposed garage has been removed from the scope of work and the proposed fence has been relocated. Additionally, an effort to determine the status of the last plantings installed on the property (c. 2014) and what additional plantings could be added as mitigation for this project was ongoing.*

*On 5/28/20, a landscaping plan was submitted, depicting the existing landscaping, the areas that were planted in 2014, and a proposal for five new plantings near the existing fire pit. A revised site plan, incorporating the above information, was also submitted. Finally, additional information on the pool was provided:*

*If the Commission is satisfied with the information that has been submitted, an Order of Conditions could be issued, as follows. Staff notes that draft condition #7 is included in the event that the Commission requires additional mitigation; it should be deleted if that is not the outcome of the hearing.*

Chair Freeman summarized the reason for continuance and the resource areas. Representative John Cavanaro, and Landscape Architect, Sean Papich were on the call. J. Cavanaro explained that due to all that was involved with setbacks for septic, conservation, and the electric company easement, the homeowner has chosen to remove the proposed carriage house and stepping stone walkway (that went through the 50 ft buffer zone) from the application. Information regarding the filtering system of the pool had been received from Custom Quality Pools and provided to staff. They have also relocated the fence from the resource area to the edge of the resource area along the lawn edge.

S. Papich reviewed the history of the planting campaign that was done for an earlier project; invasives were removed and 6700 sf of plant material was installed. He described the proposed mitigation effort for this application keeping in mind the reduction in project scope: installation of a handful of beach plums over in the area toward the edge of the wetland behind the fire pit. The CO clarified that the square footage for the pool and patio was roughly 1200 sf additional surface over the existing patio surface. The Commission and CO briefly discussed mitigation. The CO added that although she appreciated all the mitigation that had been done in 2014, she feels it would be difficult going forward if applicants were to argue for past plantings. S. Papich stated that within the 50- 100 ft buffer on the downhill side of the pool there would be a couple hundred sf of plantings; a combination of native and ornamental plantings. S. Papich clarified that the area is where the low retaining wall is on the plan with the word 'terrace' on it.

The CO stated that she had not been aware of the 200 sf of terrace plantings within the 100 ft buffer. Chair Freeman agreed with the CO and stated that it is too complicated to consider previous work as mitigation. She stated that the pool is a structure and they would expect mitigation for that, but factors the commission will consider are what type of structure, what it's replacing, impacts on the resource area, and what mitigation is proposed. In this case, the removal of the old septic is in her opinion partial mitigation. After further discussion of the proposed mitigation, the Commission briefly discussed the use of chlorine and ultraviolet light for the pool.

The CO stated that the Commission would still keep draft condition #7 of the staff memo, as a species list of plants that will be planted on the terrace area, as well as for the beach plums further down the hill, would be submitted. Chair Freeman invited any participants to comment. There were no comments from the public.

**Motion:** Chair Freeman moved to issue an Order of Conditions for the proposed work at 12 Martins Lane (DEP 034-1363), as shown on the submitted plans, and adopt the findings of fact a and b, and special conditions 1 through 20 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 shall 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 planting plan shall be submitted to the Commission for review and approval. All mitigation plantings shall be native species; no cultivars, non-native species, or invasive species shall be allowed.
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 50 feet of any resource area.
11. There shall be no stockpiling of soil or other materials within 50 feet of any resource area.
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. 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.
14. No vehicle or other machinery, refueling, lubrication or maintenance, including concrete washout, shall take place within 50 feet of any resource area.
15. All abandoned septic components, not just those encountered during construction, shall be removed and properly disposed of at an off-site location.
16. 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.
17. There shall be no discharge of any pool water or backwash within 100 feet of any resource area. This condition shall apply in **perpetuity** and shall not expire with the issuance of a Certificate of Compliance.

18. 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.
19. 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.
20. Prior to the issuance of a Certificate of Compliance, the mitigation 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.

**Second:** Comm’r Mosher

**Roll Call:** Comm’r Hidell: aye, Comm’r Kelly: aye, Comm’r Mooney: aye, Comm’r Roby: aye, and Vice-Chair Zane: aye

**27 Isaac Sprague Drive – DEP 034-1364**

Applicant: Trevor Byrne

Representative: Scott Rogers, J.K. Holmgren Engineering, Inc.

Proposed: Construction of swimming pool, pool house, patio, and shed

*Meeting Documents & Exhibits: Staff memo & Narrative and Original Proposed Conditions Plan 5/13/20*

*Excerpts from the staff memo: Staff visited the site on 5/26/20. The backyard is divided into two fairly level tiers, with a boulder retaining wall separating the tiers. The areas within the scope of work are maintained as lawn, existing patio, and a gravel parking area. Staff was able to locate the majority of the flags, as depicted on the plan, however the numbers were no longer legible. Staff notes that the stormwater basin on the western abutting property is jurisdictional (additional comments below). Staff does not believe the drainage swale at the rear of the property is jurisdictional. Finally, staff located several flags associated with the Isolated Vegetated Wetland on the eastern abutting property, as depicted on the plan, on the locus property and raised this concern with the representative:*

*“I wanted to send you a quick note to follow-up on my site visit earlier today. While I don’t have any additional concerns about the drainage swale, I do have one related to the extent of the IVW, off the northeast corner of the property. As far as I can tell, a stockade fence separates the property from 4 Edgar Walker Court. Its shadow can be seen on the 2018 aerial imagery below. At the northern end of the fence, I found wetland flags on the 27 Isaac Sprague Drive side of the fence. The flag numbers had worn off (as was the case with all of the flags on the property), so I can’t be more helpful in that regard. My concern is that your plan depicts all of the IVW flags on 4 Edgar Walker Court. If I had my bearings straight, the IVW would extend onto 27 Isaac Sprague Drive and in turn, extend the 50ft and 100ft buffers closer to the proposed scope of work. Please let me know your thoughts.”*

*Staff relayed a number of other questions and comments to the representative (below) and as of 5/28/20, has not received a formal response, although one is anticipated, along with a revised plan.*

Chair Freeman summarized the resource areas, the proposal and the staff memo. Representative, Scott Rogers and homeowner Trevor Byrne were present on the call. S. Rogers reviewed the wetland resources areas and stated that the buffer zones have been added to the recently revised plans for the stormwater basin. He pointed out that all of the work in the proposal takes place in areas that have been previously disturbed and noted that 3 trees need to be removed; a 21” red oak, a 15” twin red oak and a 19” red maple. They are proposing five new trees 1.5 to 2” caliper matching the species of the removed trees. They are also proposing additional buffer zone enhancement plantings along the edge of the woodland area. He explained that the pool itself would be 20’ by 40’ and outside of the 50 ft buffer, the pool shed would be 16’ by 16’ also outside the 50 ft, and the pool house shown is for a future phase. The pool area would have a permeable apron consisting of limestone pavers.

S. Rogers went through the comments (*italicized*) listed in the staff memo and responded (responses in **bold**):

1. *In your Narrative, you note an “extensive Landscape Plan.” Has that been finalized? If so, could you please send me a copy? Please note that our Regulations do not allow for the expansion of lawn in the 50’ buffer zone and the Commission recently passed a Tree Removal and Replacement Policy that should be addressed. (Your Narrative also mentions the removal of “a few” trees; this should be quantified.)*

**S. Rogers stated that the Landscape plan was submitted that day.**

2. *Your application has a placeholder for a USGS map, however one was not included. Note, this is not critical for me to have, it just seems to have been overlooked.*

**S. Rogers stated it was submitted that day.**

3. *Your Narrative and plan reference the stormwater basin on the western side of the property. Please note that this area is jurisdictional. I attached a copy of the as-built plan for the Conservatory Park subdivision, which indicates that the basin was completed as of October 1995. Please add the 50' and 100' buffer zones to this resource area accordingly.*

**Buffer Zones have been added.**

4. *The Wetlands Report indicates that the drainage swale did not contain any water or dominant wetland vegetation in February. I will be taking a closer look at this area tomorrow and will let you know if I find any contradictory evidence regarding its jurisdictional status.*

**S. Rogers stated that the CO had been out to the site subsequently and had no concerns related to the drainage swale.**

5. *The plan also notes that the drainage easement is to be abandoned. Who is the holder of this easement and do you have any documentation from them regarding their intent to abandon the easement?*

**The homeowner has been working with Bare Cove Park to eliminate the easement and draft documentation has been submitted showing that.**

6. *Have you had any conversations with the Town's Sewer Commission regarding the improvements that are located within the sewer easement shown on the plan?*

**S. Roger stated that they'd talked to the Sewer Commission and they are okay with the patio as long as they're able to maintain access and the homeowner assumes risk of it being disturbed.**

7. *The Quitclaim Deed references a prior Order and specifically states, "Further dredging, filling or grading of any kind is strictly prohibited after construction...." [Staff notes that this sentence concludes... "as proposed under this Order of Conditions unless subsequently approved in new actions under this Act and By-Law."]*

**S. Rogers stated that looking further into that particular OOC it seems to mean that any more work would need new approvals.**

- a. *The 2017-2018 aerial imagery for the property shows a dramatic change in the forest cover (attached). It is not clear if any fill or grading took place in conjunction with this work. Do you have any additional information about this work, which was not formally permitted by the Commission?*
- b. *How does the current proposal comply with this language?*
8. *After the additional 50' and 100' buffer zones have been added to the plan, can you please calculate the proposed new impervious area to be added to each? It would be helpful if you could break those values down by structure, patio, planter, and retaining wall.*

**S. Rogers stated that the new plan does have all those impacts listed.**

9. *What type of foundation is proposed for the pool house and shed? How will the rooftop runoff for each structure be managed? **The shed would have a gravel base and the pool house is for a future phase.***
10. *The Commission has recently started asking for 1:1 mitigation for new structures proposed in the 100' buffer zone and 2:1 mitigation for new structures proposed in the 50' buffer zone. Please consider options for mitigation on this property as part of this scope of work. **He described the areas of tree replacement and areas of buffer zone and listed the proposed plants.***
11. *Please provide the dimensions for the proposed pergola. Will footings be required as part of its construction?*

**This would be part of a future proposal.**

12. *The plan notes a concrete apron, but does not specify a material for the proposed patio areas. Please provide the specifications on all of the selected materials, specifically whether they're permeable or not. **S. Rogers stated that the original plan showed concrete but the revised plan shows it would be limestone with pervious joints. The retaining wall would be made out of fieldstone. The planting beds would have bark mulch and there would be sod in the lawn areas.***
13. *Will the proposed fence be located at the edge of the existing apron/patio? **The fence on the new plan shows that it will surround the pool but on the outskirts of the property.***



14. *How and where will the pool water be disposed of during routine maintenance activities?* **S. Rogers stated that the pool system is a state of the art system with filters that don't require any backwash and is an oversized system.**
15. *Please provide additional details on the proposed retaining wall, such as the height and construction material.* **It will be fieldstone with a maximum height of 3 ft.**
16. *Will the existing boulder wall to the east of the limit of work be removed as part of this project?* **Yes, it will be removed, a section on eastern side won't be touched.**

Discussion followed regarding the CO's comments regarding the flags on the site and S. Rogers stated that the fence for the neighbor doesn't straddle the property line. The CO stated that she will inspect the revised plans and follow up if it still doesn't make sense. The ACO suggested that the pool house and pergola be removed from the plan if they are not part of the current proposed work. Brief discussion followed with the C.O. explaining that an Order of Conditions is valid for 3 years and that there are some options within that time frame.

Chair Freeman invited any participants to comment. There were no comments from the public.

**Motion:** Chair Freeman moved to continue the Notice of Intent hearing for 27 Isaac Sprague Drive (DEP 034-1364) to June 15, 2020.

**Second:** Vice-Chair Zane

**Roll Call:** Comm'r Hidell: aye, Comm'r Kelly: aye, Comm'r Mooney: aye, and Comm'r Roby: aye

## **22 Saw Mill Pond Road** – DEP 034-1365

Applicant: Michael O'Connor

Proposed: Installation of above-ground swimming pool

*Meeting Documents & Exhibits:* Staff memo, Narrative and Original Site Plan

*Excerpts from the staff memo:* Staff visited the site on 5/26/20. The backyard is fairly flat and the proposed location for the pool is maintained as lawn. Staff notes that an above ground pool used to exist on this property, within the limits of the existing deck, however the current property owners removed that pool for safety reasons. The **resource areas were not flagged**, however given the existing topography and vegetation, as well as site improvements, staff feels that it is unlikely the boundaries would have changed since they were last flagged in 2015.

Staff discussed the pool installation process with the applicant. While the backyard is fairly flat, some **minor filling and grading** may occur to ensure that the pool is situated on perfectly level ground, and a traditional sand base. Staff does not feel that this activity will have a negative impact on the resource areas, as long as erosion and sedimentation controls are installed and maintained during construction, and remain in place until the area is stabilized. In terms of pool maintenance, staff understands that **chemical treatments and water drawdowns** will be routine. The applicant has agreed to ensure that pool water is discharged at least 100 feet from the resource areas, and staff included a draft condition below, addressing this activity.

The Commission has recently based its mitigation requirements on the presence of new structures. If the Commission feels that mitigation is appropriate for this project, staff recommends a **native planting area of at least 288sqft**, which would be consistent with the 1:1 ratio applied to other projects located within the 100 foot Buffer Zone. Staff notes that lawn areas to either side of the existing shed were quite saturated and could be improved with a wetland seed mix and/or shrubs and perennials.

As of 5/28/20, MassDEP has **yet to issue a NOI Number** for this project. If one is issued before the hearing and the Commission is satisfied with the scope of work, an Order of Conditions could be issued, as follows. Staff notes that draft conditions #7 and #18 are included in the event that the Commission requires mitigation; they should be deleted if that is not the outcome of the hearing.

Chair Freeman summarized the proposal and resource areas. Michael O'Connor was present on the call and described his proposal and described the spot chosen for the pool because it was the flattest part of the yard, not requiring as much grading. He explained that the water would be drained outside the 100 ft buffer at the front of the house. Brief discussion followed regarding the drainage easement; M. O'Connor stated that the whole yard is lawn and he does not believe there is a pipe in the easement. The CO noted that the GIS has the drainage easement depicted differently than the submitted plan; on GIS the easement cuts nearly diagonally across the rear lawn and hugs the

property boundary in a ten ft strip. It was determined that it wasn't something that would affect the Commission's decision but it was recommended that the homeowner might look into it in case there is an effect on his proposal.

Chair Freeman stated that everything seemed straightforward with the application but the one matter to discuss would be mitigation. She noted that in this case it is an above ground pool with less impact and the surface area is smaller. The CO described an area on the property near the shed that is very soggy and suggested that it could potentially be an area that could be converted to plants tolerant of those conditions. She noted that a 1:1 ratio based on the size of the pool would be 288 sf of mitigation but that has flexibility based on other factors discussed. M. O'Connor indicated that he would be amenable but would prefer to not plant and not incur more landscaping costs and pointed out that it is not a permanent pool; that they might have it for this year and maybe the next. Mitigation discussion followed with the Commission, staff and M. O'Connor eventually agreeing that to sow a seed mix, instead of plantings, in a foot wide strip along the fence, on either side of the shed, adding up to 100 ft in length would be acceptable due to the fact that the pool is above ground with lower impact. It was agreed that the draft condition #18 would not be included in the Order of Conditions.

Further discussion followed regarding the preconstruction site visit, erosion controls and M. O'Connor being the project supervisor as he will be onsite during assembly. Brief discussion followed regarding re-siting the pool.

Chair Freeman invited any participants to comment. There were no comments from the public.

**Motion:** Chair Freeman moved to issue an Order of Conditions for the proposed work at 22 Saw Mill Pond Road (DEP 034-1365), as shown on the submitted plan, and adopt the findings of fact a through c, and special conditions 1 through 17 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.
- c. For the purpose of this filing, the Commission makes no finding as to the exact boundaries of wetland resource areas on site.

Special 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 and inspected by an agent of the Commission; straw wattles and/or hay bales shall 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 planting plan shall be submitted to the Commission for review and approval. All mitigation plantings shall be native species; no cultivars, non-native species, or invasive species shall be allowed.
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 50 feet of any resource area.
11. There shall be no stockpiling of soil or other materials within 50 feet of any resource area.
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. 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.
14. No vehicle or other machinery, refueling, lubrication or maintenance, including concrete washout, shall take place within 50 feet of any resource area.
15. 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.
16. There shall be no discharge of any pool water or backwash within 100 feet of any resource area. This condition shall apply in **perpetuity** and shall not expire with the issuance of a Certificate of Compliance.
17. 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.
- ~~18. Prior to the issuance of a Certificate of Compliance, the mitigation 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.~~

**Second:** Vice-Chair Zane

**Roll Call:** Comm'r Hidell: aye, Comm'r Kelly: aye, Comm'r Mooney: aye, Comm'r Mosher: aye and Comm'r Roby: aye

Comm'r Hidell briefly described his visit to the Lehner Conservation Property to inspect the drainage. Brief discussion followed about contacting Plymouth County Mosquito Control to investigate the drainage and see what they might be able to do.

Chair Freeman adjourned the meeting at 9:30 pm.

Submitted, \_\_\_\_\_  
Sylvia Schuler, Administrative Secretary

Approved on June 15, 2020

*This meeting was recorded. To obtain a copy of the recording please contact the Conservation office.*