

## CONSERVATION COMMISSION MEETING MINUTES– June 3, 2019

**Present:** Laurie Freeman- Chair, Paul Hall- Vice Chair, Bob Mosher, John Mooney, and Jacqueline Zane - Commissioners, Loni Fournier- Conservation Officer, and Sylvia Schuler- Administrative Secretary

**Absent:** Bob Hidell

**The meeting was called to order at 7:03 PM.**

### **Approval of Minutes**

**Motion:** Commissioner Mosher moved to approve the draft minutes as amended from the May 20, 2019 meeting.

**Second:** Commissioner Zane

**In Favor:** All

**Opposed:** None

### **Certificates of Compliance**

**16 Marshall Road** – DEP 034-0741, continued from 4/22/19

Applicant: Mark Patroia

*Excerpts from the staff memo: This discussion is continued from the 4/22/19 meeting in order to give the applicant time to seed the restoration area and the seed mix time to germinate. Staff visited the site on 5/28/19. The applicant exceeded the planting requirements, selecting one more tree and shrub than required for a total of seven trees and 21 shrubs. The plants appeared to be doing well, the area was stable, and the conservation/wildlife seed mix had started to germinate. Japanese knotweed continues to persist within and adjacent to the restoration area, however the applicant is monitoring the area for new growth and hand pulling stems whenever they appear.*

*Meeting Documents & Exhibits: Staff memo*

**Motion:** Commissioner Mooney moved to issue a Certificate of Compliance for 16 Marshall Road, DEP 034-0741.

**Second:** Commissioner Hall

**In Favor:** All

**Opposed:** None

**191 Downer Avenue** – DEP 034-0741, continued to 6/17/19

Applicant: Michael and Kerry Connolly

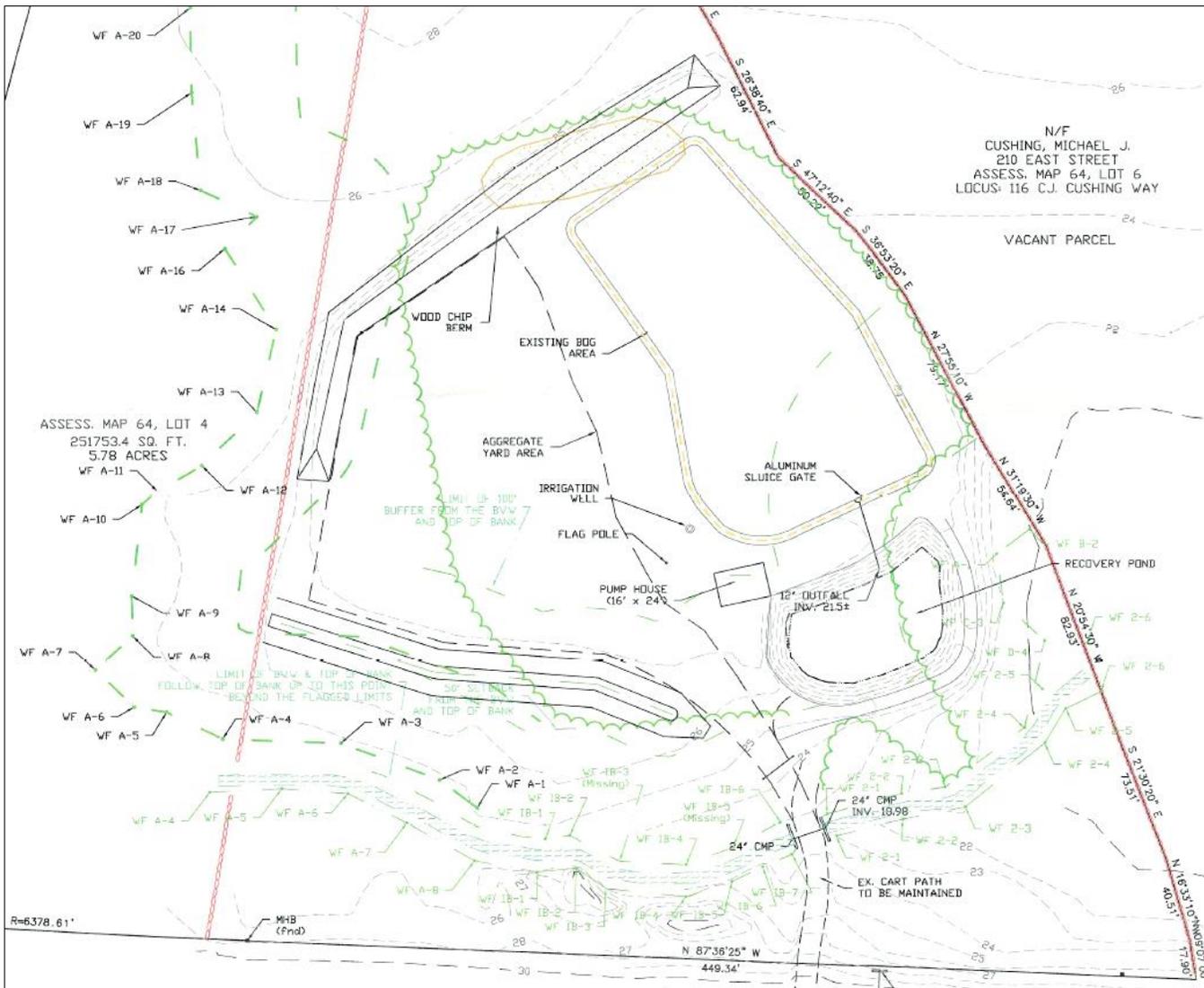
**90 Chief Justice Cushing Highway** – DEP 034-1021, continued from 5/20/19

Applicant: Paul Iaria, Steam Shovel Farm LLC

Representative: Gary James, James Engineering

*Excerpts from the staff memo: This discussion is continued from the 5/20/19 meeting, where the expanded limit of clearing and filling, beyond that depicted on the final approved plans, was discussed. There was some confusion as to whether the wetlands scientist hired by the applicant/representative flagged the wetlands before or after a portion of the fill was relocated east of the stone wall that roughly bisects the property. Staff has not heard from the representative regarding this question. Staff did briefly discuss the current conditions with the wetlands scientist and learned that even with a portion of the fill removed, it will be difficult to determine the original extent of the wetlands due to the amount of disturbance in the soil and the lack of vegetation in the area of concern.*

*Staff recommends that the Commission determine the appropriate level of restoration for the site. The representative provided a revised plan at the 5/20/19 meeting that depicts the most recent wetland flags, the amount of disturbance within the 50ft buffer zone, and the original approved limit of clearing (screenshot below). Staff supports the restoration of the 50ft buffer zone, including the removal of all fill and stockpiled material within, and reseeding and replanting the area accordingly. The east-west berm running from the access road to the stone wall may remain, since it is on the 50ft line and established with plantings. In addition, this berm serves as a noticeable barrier to the resource areas on the southern end of the property.*



**Meeting Documents & Exhibits: Staff memo**

Paul Iaria, property owner, was present. The C.O. stated that the outstanding question from the previous meeting had to do with the timing of the wetland scientist’s visit to the site; the C.O. has since learned that the material had been moved before the wetland scientist went to the property.

The C.O. stated that when this project was first approved, the wetlands on the western side of the stonewall were never identified as part of the plan for the bog approval so there is no early wetland line to compare to, which makes it hard to determine how much the fill encroached on. She explained that a portion of the fill had been pulled back to at least the wall, the wetland scientist visited the site, and afterwards, in a conversation with the C.O., the wetland scientist said that it would be very difficult to determine where the wetland line was before the fill went in due to the amount of disturbance to the soil and the lack of vegetation. The major question ahead for the Commission is whether or not they’ll feel comfortable accepting the line as delineated. The C.O. added that in conversations with P. Iaria, he’s expressed that he’s amenable to the recommendation in the staff memo of pulling back to the 50 ft. and doing some restoration work based on the delineation as shown on the last submitted plan. Any future work towards the back of the property would be a separate filing. Commissioner Freeman clarified that the reason the Commission is in this situation is because there was action taken that exceeded the authority of the Order of Conditions and the C.O. confirmed that clearing and filling went beyond the original approved Order.

The Commission briefly discussed the situation but expressed their preference to wait to hear from Commissioner Hidell who, at the last meeting, planned on going to visit the site.

**Motion:** Commissioner Zane moved to continue consideration of a Certificate of Compliance for 90 Chief Justice Cushing Highway, DEP 034-1021 to June 17, 2019.

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

**14 Seal Cove Road** - DEP 034-1195

Applicant: Charles Flint

Excerpts from the staff memo: An Order of Conditions was issued in May 2014 for removing and replacing a pool, patio, and cabana with new structures in a different configuration. The as-built plan largely adheres to the final approved plan. The overall footprint of the work is roughly the same, however there were several small changes. The patio is partially surrounded by two retaining walls and planting areas proposed above and between these walls were not constructed. Instead, a larger patio area with gravel edging was installed and landscaped beds were planted near the base of the wall. Planting details were not provided with the approved plan and there were no specific conditions related to plantings. Additionally, a combined cabana and pool equipment area was proposed with the equipment area on sonotubes. Instead, a smaller cabana and separate fenced pool equipment area were constructed, however the changes decrease the overall footprint of work within Land Subject to Coastal Storm Flowage (Zone AE). Staff visited the site on 5/29/19. The work area is stable and lawn is fully reestablished.

Meeting Documents & Exhibits: Staff memo

**Motion:** Commissioner Mooney moved to issue a Certificate of Compliance for 14 Seal Cove Road, DEP 034-1195.

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

**Request for Determination of Applicability**

**6 Del Prete Drive**

Applicant: Jon and Erin Cignetti

Proposed: Addition and garage expansion

Excerpts from the staff memo:

The applicant is proposing to construct a 4ft wide expansion of an existing garage as well as a 531sqft two-story addition and an approximately 13ft x 20ft deck at the rear of the existing house. An existing rear deck will be removed. A portion of the garage expansion will be within the 100ft buffer zone to a potential vernal pool, slightly more than 75ft at the closest point. A portion of the stairs to the deck will be within the 50ft buffer zone to an intermittent stream, however with the removal of the existing deck, there will be less area containing structures within the 50ft buffer zone in the proposed conditions. The remaining work will be within the 100ft buffer zone to the intermittent stream. Staff visited the site on 5/23/19. The wetland resource areas in the vicinity were flagged by a wetlands consultant and staff generally agrees with the delineation, however they are located off property, thus staff recommends that the Commission make no finding regarding the exact boundaries. The potential vernal pool is located across the street from the property. The proposed garage expansion will be in an area that is currently paved driveway, which pitches to a catch basin within the driveway. The intermittent stream runs along the rear of the adjacent property, 8 Del Prete Drive, and presumably continues behind other properties to the west. It ends abruptly just off this property, outside the fenced in yard area. The stream channel may be man-made or may have been a natural channel that was straightened at some point in the past. Staff was initially concerned that the stream may have previously extended further and was filled on this property at some point. However, there is no clear evidence that this happened and there is no stream or ditch located on the adjacent parcel to the east, 4 Del Prete Drive. Existing conditions at the rear of the house include a large deck to be removed, lawn, a small number of landscape plantings, and stairs to the basement. No trees or shrubs are in the vicinity of the proposed work. Given the size of the proposed rear addition, staff recommends requiring stormwater mitigation for rooftop runoff. The garage addition is significantly smaller and runoff from this expansion should be captured by the existing catch basin in the driveway, though it is unclear where this basin discharges or whether it is a leaching catch basin.

Staff does not believe the proposed work will have a negative impact on the resource areas, provided that erosion controls are installed and maintained throughout construction, and the applicant complies with the other recommended conditions below.

Meeting Documents & Exhibits: Staff memo

Erin Cignetti, homeowner, was present and gave a brief overview of the proposal. The C.O. asked the applicant about the catchbasin in the driveway and if she knew where that went. E. Cignetti explained that she had a drain person

come out who said that things would need to dry up a little in order to get a camera down far enough to know where it goes; he thought that it probably came from a drain at the top of the driveway by the mailbox.

The Commission discussed the intermittent stream channel and concluded that it would never be known whether it had extended into the rear of 6 Del Prete Drive at some point, nor its original purpose, manmade or not.

E. Cignetti stated that she had her contractor look over the draft conditions in the staff memo and stated that there were no problems complying with any of them. She added that they would likely have downspouts and the C.O. briefly explained how a drywell works with that.

**Motion:** Commissioner Mosher moved to issue a Negative Determination of Applicability for the work proposed at 6 Del Prete Drive, as shown on the submitted plans, 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 the wetland resource areas on site.

Conditions:

1. Prior to the start of work, erosion and sediment controls shall be installed 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.
2. 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.
3. There shall be no stockpiling of soil or other materials within 50 feet of the resource areas.
4. No vehicle or other machinery, refueling, lubrication or maintenance, including concrete washout, shall take place within 50 feet of any resource area.
5. Any debris, which falls into any resource area, shall be removed immediately by hand.
6. Rooftop runoff from the rear addition shall be infiltrated on site, using either drywells, infiltration chambers, or drip edge stone trenches.
7. The Conservation Department shall be notified to any changes in plans prior to proceeding with said changed plans.

**Second:** Commissioner Hall

**In Favor:** All

**Opposed:** None

Other Business

Update on crops at Cushing and Shultz fields

- a. The C.O. informed the Commission that due to the wet spring weather, J. Hornstra was unable to convert the fields to hay as originally planned and therefore the fields will be corn again this season.
- b. Discussion of changes to Wetland Regulations: Part 1, Section 4.0 Exceptions; Part 2, Section 23.0 Tree Replacement/Site Restoration; Part 2, Section 23.1 Septic Systems  
Meeting Documents & Exhibits: Commissioner Freeman's edited minor activities submittal

Commissioner Freeman had submitted to the office a version of J. Zane's document with edits to the state's section on Minor Activities 1 and 2, a thru q as discussed at the earlier meeting. Each Commissioner received a printed copy at the beginning of the meeting. Commissioner Freeman stated that the Commission has to be sure that the proposed edits are not more lenient than the state. She expressed her concern with 2.a., that by adding 'or permeable' it becomes more permissible than the state.

The Commission then discussed 2.c. regarding pruning, 'vista' pruning and the possibility of requiring people to use a certified arborist. Commissioner Mooney added that there was a Cohasset regulation to do with trees that he liked that prohibits clear cutting from property line to property line. The C.O. stated that Hingham's regulations and the state's regulations are silent on pruning activities outside of 'vista' pruning. Further discussion followed about the definition of 'vista' pruning; the Cohasset regulations gave some parameters regarding percentage of the canopy and the state defined it as "the selective trimming of branches or understory shrubs to establish a specific window to improve visibility; vista pruning does not

include the cutting of trees which would reduce the leaf canopy to less than ninety percent of the existing crown cover and does not include the mowing or removal of understory brush.” Commissioner Hall suggested following Cohasset’s example of having specific definitions of the various pruning activities, and then allowing specific ones to be permitted as minor activities; he added that both Cohasset and State regulations prohibit pruning within the 50 ft buffer. The Commission discussed incorporating the Cohasset pruning regulations within the Hingham regulations in a separate section dealing with vegetation; eliminating 1.c. altogether.

The Commission moved on to discuss the minor activity ‘the conversion of lawn’ with the wish to add on ‘or already disturbed’ and concluded that the C.O. could check with DEP that it would not make it more lenient than the state. The Commission discussed whether there should be a square footage limitation to what can be installed.

The C.O. stated that she had reached out to DEP for some guidance with the exemptions and she anticipates a discussion via phone with them. The Commission reviewed the remainder of the minor activities with only minor changes that the C.O. can run by DEP.

The Commission decided to postpone the discussion of the tree replacement discussion to the next meeting.

The C.O. stated that the Board of Health regulations call out every component of a septic system to be at least 100 ft away from wetlands and the Conservation regulations are currently less strict than that. At a minimum, the Conservation regulations could match the Board of Health regulations. The Commission agreed that was straightforward and made sense.

Commissioner Freeman adjourned the meeting at 8:15 pm.

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

Approved on June 17, 2019

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