



## CONSERVATION COMMISSION MEETING MINUTES – June 21, 2021

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

**Absent:** Laurie Freeman-Chair and Bob Hidell-Commissioner

This meeting was held in-person at Hingham Town Hall.

**The meeting was called to order at 7:02 PM.**

### Approval of Minutes

**Motion:** Comm'r Mooney moved to approve the draft minutes, as amended, from the June 7, 2021 meeting.

**Second:** Comm'r Mosher **In Favor:** All

**Opposed:** None

### Certificates of Compliance

#### 90 Ward Street – DEP 034 1337

Applicant: Lawrence Mayo, Ward Street Realty Trust

Meeting Documents & Exhibits: Staff memo and As-built Plan 6/4/21

Excerpts from the staff memo: An Order of Conditions was issued in March 2019 to redevelop a lot that previously held a church and construct a three-lot subdivision, as well as install a new shared septic system on an adjacent wooded lot to serve the three new houses (now 86, 90, and 94 Ward Street). Subsequent to the issuance of the Order, staff approved a final design for the house located closest to the wetlands (#94), as the final approved plans just included a placeholder for the proposed footprint. The final design included a slightly larger house footprint, with an attached garage, the addition of a deck, and a reconfigured driveway. The as-built plan largely adheres to this plan or to the final approved plan, as appropriate based on the location of work.

Staff visited the site on 6/10/21. The site is mostly stable and vegetated. Two of the three houses (#90 and #94) have been completed along with almost all of the site work, as well as the shared septic system and associated infrastructure. The third house (#86) is under construction, but the 100ft buffer zone only covers a very small portion of a rear corner of this lot.

Vice Chair Kelly summarized the staff memo and invited the applicant's representative to speak. Brendan Sullivan from Cavanaro Consulting was present, displayed the As-built Plan, and responded to comments from the staff memo. He explained that 95% of the landscaping is done, it's all seeded and the grass is coming in; they will wait until the fall for some other areas and reseed any areas that don't take. They have reinstalled the silt sock. Roof leaders are going into an infiltration system and the pvc pipe in question is related to the roof leaders. The ACO noted that, in regards to the roof leader that manages a portion of the roof runoff, it had been retrofitted as well as possible given the site constraints; it's not a traditional drywell, rather it's buried crushed stone at the outlet but it meets the intent. She noted that the project is only eligible for a Partial COC as the condition for plantings survivability has yet to be met.

**Motion:** Comm'r Mooney moved to issue a Partial Certificate of Compliance for 90 Ward Street, MA DEP 034-1337.

**Second:** Comm'r Mosher

**In Favor:** All

**Opposed:** None

### Requests for Determination of Applicability

#### 2 Queen Anne Lane, continued from 6/7/21

Applicant: James and Lauren O'Neill

Proposed: Hardscaping and grading improvements

Meeting Documents & Exhibits: Staff memo,

Excerpts from the staff memo: This item is continued from the 6/7/21 meeting to allow time for the applicant to stake the proposed fence location at the rear of the property and staff to make another site visit to determine required mitigation and evaluate a proposed mitigation area between the wetland and the proposed fence. Staff has calculated required mitigation as follows:

**217sf mitigation planting area.** Staff used onsite measurements to estimate that the proposed mitigation area behind the proposed fence would be ~200sf. There is plenty of room for a few additional shrubs or herbaceous plantings along the eastern side of the site, which also abuts the wetland/stream, to achieve the full mitigation.

James O'Neill was present. Vice Chair Kelly summarized the staff memo. James O'Neill was present and confirmed staff's assessment. The ACO had not further comments on the proposal other than pointing out to the Commission the addition of a finding related to the small conversion to lawn.

**Motion:** Comm'r Mooney moved to issue a Negative Determination of Applicability for the proposed work at 2 Queen Anne Lane, as shown on the submitted plans, and adopt the findings of fact a through d, and conditions 1 through 11 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.
- d. The Commission is approving the conversion of an approximately 114 square foot area of existing landscaping into lawn within the 50-foot buffer zone due to the relatively small scope of work, the nature of the existing plants, which are non-native and/or ornamental plants and consist of mostly herbaceous growth with a small number of shrubs, and the fact that the landscaped area is adjacent to an existing patio and is separated from the wetland resource area by an existing lawn area.

**Conditions:**

1. Prior to the start of work, manufacturer specifications and construction details for the driveway pavers and the patio pavers shall be submitted to the Commission for review and approval. The driveway and patio shall be constructed with permeable pavers or grass pavers, permeable joints, and an appropriate permeable subbase.
2. Prior to the start of work, a mitigation planting plan shall be submitted to the Commission for review and approval. The planting plan shall include a minimum of 217 square feet of plantings, including a mix of shrubs and herbaceous species. 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.
3. Prior to the start of work, erosion and sediment controls shall be installed, between the limit of work and the wetland resource areas at the rear and along the eastern side of the property, 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.
4. 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.
5. Any debris, which falls into any resource area, shall be removed immediately by hand and properly disposed of at an off-site location.
6. All excavated material shall be properly disposed of at an off-site location.
7. There shall be no stockpiling of soil or other materials within 25 feet any resource area.
8. No vehicle or other machinery, refueling, lubrication or maintenance, including concrete washout, shall take place within 25 feet of any resource area.
9. Following the completion of work, documentation shall be submitted from the contractor or installer confirming that the driveway and the patio have been installed to be permeable in accordance with the approved manufacturer specifications and construction details.
10. Mitigation plantings shall be installed, and seeding completed, in accordance with the final approved mitigation planting plan.
11. The Conservation Department shall be notified to any changes in plans prior to proceeding with said changed plans.

**Second:** Comm'r Mosher

**In Favor:** All

**Opposed:** None

**Vice Chair Kelly read the Public Hearing Notice of Intent.**

**Notices of Intent**

**387 East Street** – DEP 034-XXXX

Applicant: Joanne Reed

Representative: Gary James, James Engineering, Inc.

Proposed: Septic systems repair

*Meeting Documents & Exhibits: Staff memo, Narrative and Original Repair Subsurface Disposal System Plan Set 5/19/21-5/21/21*  
*Excerpts from the staff memo: Staff visited the site on 6/10/21. Wetland resource areas, consisting mostly of Bordering Vegetated Wetlands, were flagged by a wetland scientist in May 2021. In one area, the flags represent the edge of the pond and Land Under Water. Staff agrees with the delineation, but recommends making no finding since it's not clear whether flags are on or off property, as not all property lines are shown on the plans. The areas where the leaching field and one of the tanks are proposed currently*

consist mostly of large gravel driveway areas with very sparse herbaceous vegetation, and an old garden. Pipes would be installed across the gravel or lawn areas. The second tank and the pump chamber would be within lawn, walking paths, or landscaped areas, but would not require the removal of any significant trees, per the representative. Although work is proposed in the buffer zone, the representative has indicated that these are the only feasible locations for septic components due to the presence of bedrock and ledge.

Vice Chair Kelly summarized the staff memo. The representative, Gary James of James Engineering Inc, was present along with the applicant, Joanne Reed. G. James described the site, stated that there were two systems being repaired, one from the former commercial use and one for the 3 bedroom dwelling. He described the issues with ledge and stated that the proposed leaching area would be in one of the former gravel parking areas behind the shed, one of the few spots on site where they could find some soil depth and where it would meet Title V, with some waivers of the local regulations.

The existing system for the residence is only 15-20 ft off the edge of the pond, and the tanks about 25 ft. The intent is to replace the tanks in kind and pump the sewage waste up and around the corner to the leaching field. They would likely install the tanks with a crane rather than attempt and cause damage with an excavator. He stated that system for the old commercial building there was a cesspool servicing only a sink and a toilet that was in the office. The intent is to replace that with a 1500 gallon tank and use flow by gravity. Both leaching facilities are side by side and in one spot. G. James stated that 186 ft of erosion controls would be used and he would change it to be an 8" mulch log.

The ACO stated that it was helpful to have documentation as to why it doesn't meet the setbacks and she had drafted a 4<sup>th</sup> finding to clarify this. Responding to a question from the Commission as to how much the proposal encroaches into the buffer, the ACO stated that the leaching area is 61 ft from the pond and the tank & pump chamber is 27.5 ft. With the system being subsurface she had not suggested mitigation and there are no trees proposed for removal; the installers will carefully navigate around the existing trees. Responding to a question from the Commission, G. James explained that the location chosen for the septic was the best one to comply with the Board of Health Regulations and to be in compliance for Title V.

Vice Chair Kelly invited any comments from the public.

Charles Berry, a friend of Joanne Reed, and familiar with the property, explained to the Commission issues related to the need to close on the property, currently scheduled for June 29<sup>th</sup>.

Vice Chair Kelly explained that without a DEP # the Commission is precluded from issuing an Order of Conditions. Brief discussion followed with the CO suggesting that she could write a letter indicating the Commission's general approval.

There were no further comments from the public.

**Motion:** Comm'r Roby moved to continue the hearing for 387 East Street (DEP 034-XXXX) to July 12, 2021.

**Second:** Comm'r Mosher **In Favor:** All

**Opposed:** None

#### **185 Downer Avenue**– DEP 034-XXXX

Applicant: Fred & Sandy Studley

Representative: Daniel Brewer, Law Office of Daniel A. Brewer

Proposed: Demolition and reconstruction of a single family house

*Meeting Documents & Exhibits: Staff memo, Narrative, Original Existing Conditions Plan 5/27/21, Original Proposed Layout Plan, Proposed Drainage Plan, and Proposed Erosion and Sedimentation Control Plan (3 sheets) 6/3/21, Original Elevations Plan 6/4/21, Original Foundation Plan and Details (3 sheets) 4/19/21, and Original Master Plan 6/3/21*

*Excerpts from the staff memo: Wetland resources areas were not flagged, however there is an existing vertical concrete and stone sea wall that serves as the Coastal Bank and other resources areas are seaward of the wall, except for Land Subject to Coastal Storm Flowage (Zone VE, el. 13), which covers the entire lot based on topography. Coastal Beach begins at the base of the sea wall with Tidal Flats further away, and there are two small Salt Marsh areas within 15-20 ft of the wall. Land Containing Shellfish was not identified on the plans, however staff observed evidence of shellfish in the vicinity, though no work is proposed in this area. Besides the existing house and accessory garage, the area where work is proposed currently consists of lawn and landscape beds, walkways consisting of brick, gravel, or flagstone, a low retaining wall, a small paved driveway, outdoor shower, and perimeter fencing. There is also a very large double-leader mulberry tree, and a smaller tree in a landscape bed.*

*A more **detailed breakdown of changes in structures/surface types in the 50 and 100ft buffer zones** will be needed to evaluate the full scope of work and proposed changes, as well as any potential required mitigation for work in the buffer zone. The table provided by the representative indicates an overall decrease in impervious area on the site (see table in Project Summary), however **staff disagrees with the method of calculating impervious area, which should include the entire rooftop area**. This recommendation is based on the Commission's past precedent, as well as standard practices in calculating impervious area, and the impacts of additional rooftop area on stormwater, regardless of whether a structure is elevated, and the impacts on the value of the buffer zone, particularly when vegetated.*

*Staff notes that based on the Commission's typical requirements for mitigation of 2:1 planting area for new impervious in the 50ft buffer, 1:1 for new pervious in the 50ft buffer, and 1:1 for new impervious in the 100ft buffer, it is **unlikely there would be enough room on the property for required mitigation**. The existing trees to be removed would also require mitigation per the Commission's*

*policy. Although a landscape plan was submitted with many plantings proposed, there were no specific mitigation planting areas identified or calculated, and many of the plantings are cultivars or non-native. Since all of the work is within LSCSF, specifically Flood Zone VE, if the Commission considers the work to be a reconstruction of an existing structure, as opposed to an expansion, as has been done for elevated structures in the recent past, the work may be allowed, but the structure must **allow for free passage of flood waters**. Pilings are an improvement over the existing conditions and are appropriate based on the regulations, however **skirting and breakaway panels** may not be appropriate in this setting. Additionally, while the proposed garage includes a slab foundation and walls with flood vents, consideration of an open parking area would also be appropriate.*

Applicants Fred and Sandy Studley were present at the meeting along with their representative Daniel Brewer, Susan Hoadley and Corina Martinez of Hoadley Martinez Architects, Amy Martin of Amy Martin Landscape Design, and Tim Power of PVI Site Design.

D. Brewer introduced the project and assembled team. He described the property; a 30,000 sf lot with only 9900 sf of upland with a seawall along the coastal bank. The proposed work is all upland of the coastal bank. The proposal includes renovation of an existing garage into a garden studio, demolition of the existing house with a house to be rebuilt on pilings, and a significant upgrade in landscaping. Almost all of the proposal is within 50 ft of the coastal bank and within 100 ft of the tidal flat and all of the 9900sf of upland is located within Land Subject to Coastal Storm Flowage.

D. Brewer stated that by raising the new structure on pilings it's a benefit to the resource area in that it allows the lot to accept and absorb storm flow on site. They would incorporate breakthrough panels on the ground level. He commented on the applicable wetland regulations and performance standards and summarized that they believe that what is proposed meets those regulations and standards and is a net improvement over existing conditions.

S. Hoadley presented, noting that the proposal was zoning compliant using the Hatfield Amendment and that they would be building on and expanding off of the existing foundation while taking into consideration the view shed, preserving an existing heritage tree. She described the existing house as a monolithic, at-risk structure and they've broken it into smaller masses. The proposed enclosed garage would be a concrete slab on grade with an elevator pit. She described the 1<sup>st</sup> floor plan and explained that the house design was spatially efficient.

T. Power presented, pointing out on the plan existing conditions, describing the existing house as a monolithic house at risk for flooding with no area below for infiltration, and describing the rest of the site as suburbanized landscape, with no benefit of a natural buffer zone. He added that the proposed design addresses flood concerns and stormwater control. In regards to flood control, he described the proposed house being built on a series of piles and rather than having concrete under the house, they propose riprap under the pilings, providing for infiltration as well as flow dissipation. In regards to stormwater, he described a series of leaching basins around the house to pick up runoff from downspouts. The basins are all interconnected in such a way they can surcharge together in larger storms and some are equipped with a grate to act as a relief valve and allow any surcharge to flow out in a controlled manner. He stated that, as designed, the system meets both flow and volume controls for stormwater for the 2,10 and 100 storms.

Asked by the Commission about the difference between staff's impervious calculation methods versus the applicant's, T. Power explained that because they are proposing an impervious surface beneath the house that can provide more infiltration in flood events, rather than slab, the calculation of impervious was different from staff's. Responding to a Commission question regarding flood vents for the garage or elevator, C. Martinez stated that there would be flood vents in the garage walls and break away panels for the remainder of the new house. Vice Chair Kelly explained the Commission's concern regarding break away panels this close to tidal waters, and, although it would be a visual adjustment for applicants and neighbors to see a house on pilings without a barrier underneath, it is the better option not to have the panels on there. D. Brewer expressed concern regarding neighbors' reaction to an unskirted structure and floated the idea of having skirting only on three sides but not on the coastal bank side. The Commission expressed reservations about that idea noting that free flow is inhibited with skirting. The ACO stated that the subject property is in the VE Zone and that typically breakaway panels are designed to break away but not necessarily until a 100 year storm so the concern is that for the smaller flooding events, are the panels going to allow for the free passage of flood waters.

The ACO stated that she understood the representative's explanation regarding the calculations, but noted that typically and appropriately, the Commission and staff calculate the impervious area based on rooftop area; those numbers are also used to determine mitigation. She noted that there are improvements to the existing site, pilings and drywells, however there is a large increase in footprint as well as loss of vegetated areas and that precludes potentially some of the mitigation the Commission would typically require.

Responding to a Commission question, D. Brewer stated that there are no plans to do anything with the seawall as there are no questions about its integrity. S. Studley stated that the prior owner had improved the seawall years ago.

The Commission suggested to the applicant that the revised impervious calculations be added to the plan. Brief consideration was given to the possibility of mitigation plantings under the structure concluding that it would be unlikely to survive and would not provide any benefit. D. Brewer asked that the Commission take into consideration the rip rap subsurface provided.

Vice Chair Kelly stated that with no DEP # and no vote possible, she would be interested for the applicant work on a design without skirting on all sides that would also provide functionality. The ACO floated the idea of having the garage open, in consideration of free passage. She also noted that rip rap would have been recommended beneath the house. D. Brewer spoke of a design constraint with accessibility and utility needs for the family which informed the need for an enclosed garage and elevator; flood vents would be provided.

Noting staff's comments regarding calculations and mitigation concerns, Comm'r Mooney expressed his concern regarding the lack of mitigation. Brief discussion followed with the CO asking if the proposed garden studio was a required element of the proposal, and whether that space could instead be removed to reduce impervious area. D. Brewer noted that the proposed studio does deal with utility issues but possible removal could be considered. He noted that it has a slab foundation that would require demolition. Brief discussion followed regarding mitigation and how it might be affected by removal of the studio.

Applicant F. Studley spoke to the Commission of his family's needs for an enclosed garage and elevator, wide enough walkways and living areas, first floor bedrooms and two decks in order to accommodate a wheelchair and walker and to provide maximum opportunity for the family members to interact and socialize. Further explaining the need for the size of the proposed house, F. Studley explained that; caregivers will likely spend more time at the house, both he and S. Studley have a company, work from home and each need dedicated work space, and, with no basement, there needs to be space for mechanicals as well as storage.

F. Studley spoke of having invited abutters to the property and that about 20 came and were supportive of the project. He stated that the design made available sight lines from across the street and on the hill, and also preserves a specimen tree. In regards to the existing accessory garage, he noted that it had been there since 1920, is architecturally interesting, and maybe there would be some way to have flow through it. He stated that condensers will be located on top of the house and soundproofed as best possible. He suggested that the proposed house size is a subjective factor and described observations of other recently rebuilt houses on Downer Avenue.

In response to a Commission question, the ACO stated that she hadn't offered up any mitigation numbers to the Commission in this instance because she didn't have the number of impervious sf to do the calculations; she added that it seemed unlikely that there would be enough space on the lot. Brief discussion followed regarding the proposed landscape plan. Vice Chair Kelly summarized that, in between meetings, there could be discussion on the landscape & mitigation, the number of impervious sf could be provided, and reassessment of the breakaway panels. D. Brewer asked the Commission to recognize the significant increase in pervious surface in the removal of the existing structure and having the new structure on piling with riprap underneath.

In regards to the landscape plan, A. Martin stated that only two species of plants on the list are not native, the rest are native, however there are quite a few cultivars listed for the proposed native species; she asked what the Commission's tolerance for cultivars is. The ACO stated that the straight species is preferred but that there might be consideration given if the cultivars are in beds closest to the house, whereas beds further away might have the straight species.

Vice Chair Kelly invited any comments from the public.

John O'Brien and Susan Calamare, 24 Marion Street were present. J. O'Brien stated that their house looks down on the subject property and that they were unable to make it to the applicant's Sunday open house; neither were some of his neighbors. He stated that he was glad to hear the Commission's concerns and noted that the bylaws are there for a reason. He stated that of more concern to him is the height and he's not sure how the house being up on piles impacts that. He would be happy to see that the height doesn't go up as it would obliterate a good part of their view. The Commission let J. O'Brien know that height would be a Zoning Board of Appeals issue and to contact the Zoning office to find out when it's before that board. D. Brewer stated that, as proposed, the proposal does not need zoning relief.

There were no further comments from the public.

**Motion:** Comm'r Mosher moved to continue the hearing for 185 Downer Avenue (DEP 034-XXXX) to July 12, 2021.

**Second:** Comm'r Mooney

**In Favor:** All

**Opposed:** None

**36 Canterbury Street** – DEP 034-1409, continued from 6/7/21

Applicant: David Westervelt

Representative: Paul Mirabito, Ross Engineering Co., Inc.

Proposed: Construction of a deck, pool, spa and patio

Meeting Documents & Exhibits: Staff memo and Revised Proposed Mitigation Plan 6/16/21

Excerpts from the staff memo: This hearing is continued from the 6/7/21 meeting, to allow time for the representative to respond to comments. Since then, the proposed location of the retaining wall was staked on site and staff met the wetland scientist on site to review the staking and proposed tree removals. As initially proposed, the **retaining wall was encroaching into the naturally vegetated buffer** by at least five feet at the northeast corner (see photos below), however the representative has agreed to revise the

plans to pull the limit of work outside this area. In addition to a **revised site plan**, staff is anticipating a **revised mitigation planting plan** incorporating the above changes, as well as the **inclusion of the proposed retaining wall in the calculation of required mitigation planting area**, and the inclusion of **at least six tree plantings** to mitigate for the loss of an American elm and a black cherry from the 50ft buffer zone, and several arborvitae trees that are in the 50ft and possibly 100ft buffer zone. Staff has not received information on **whether the proposed patio will be permeable or not**. Condition #38 requires the patio to be permeable, however staff recommends getting input from the representative. The initial plan did provide mitigation for this area in both the 50 and 100ft buffer, which staff thinks is appropriate particularly if an impervious surface is used. Finally, staff asked the representative to consider pulling the retaining wall further into the existing lawn/landscaped area to both minimize impacts and allow for mitigation plantings to be connected to the wooded area. The representative indicated that ledge in the area would make it difficult to plant, as opposed to having the ability to add loam inside the retaining wall and then planting there.

Representative Brad Holmes and applicant, David Westervelt, were present on the call. B. Holmes explained that he'd met onsite with the ACO and that her concern about the retaining wall was accurate. The proposed wall has been relocated and the erosion controls and mitigation have been modified. They've increased the number of trees proposed for planting, to account for the elm tree, black cherry tree and two arborvitae that will be removed. D. Westervelt stated that the patio would be Bloc Blu 60 concrete pavers, permeable, and with chip stone joints. The Commission was satisfied with the proposal.

The ACO reviewed some suggested changes to the draft conditions.

Vice Chair Kelly invited any comments from the public. With no comments from the public, she closed the hearing to public comment.

**Motion:** Comm'r Mooney moved to issue an Order of Conditions for the proposed work at 36 Canterbury Street (DEP 034-1409), as shown on the submitted plans, and adopt the findings of fact a through c, and special conditions 21 through 45 of the staff report and as amended.

*(Conditions below reflect the edits to the draft conditions as discussed at the meeting)*

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 confirms the delineation of Bordering Vegetated Wetland flags WFA1 to WFA10.

Conditions:

21. 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.
22. This document shall be included in all construction contracts and subcontracts dealing with the work and shall supersede all other contract requirements.
23. The project supervisor or contractor in charge of the work shall have a copy of this Order available on the site at all times.
24. 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.
25. 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 and sediment control. Erosion and sedimentation controls shall not be placed in any naturally vegetated buffer zone beyond the existing lawn.
26. 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.
27. 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.
28. Any debris, which falls into any resource area, shall be removed immediately by hand and properly disposed of at an off-site location.
29. All lawn waste, brush, leaves, or other materials dumped in any resource area, including the buffer zone, shall be removed by hand and properly disposed of at an off-site location, and the practice discontinued, in accordance with Section 23.6 of the Hingham Wetland Regulations.

30. All tree debris shall be properly disposed of at an off-site location; no chipped or mulched material shall remain on the property.
31. All demolition and excavated material shall be properly disposed of at an off-site location.
32. Any on site dumpsters shall not be located within 50 feet of any resource area.
33. There shall be no stockpiling of soil or other materials within 50 feet of any resource area. All stockpiles that are not used for more than five days shall be covered and surrounded by erosion and sediment controls; straw wattles and/or hay bales shall not be used as a form of erosion and sediment control.
34. 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.
35. 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. Prior to construction, plans for the stilling pond or similar device shall be submitted to the Commission for review and approval.
36. No vehicle or other machinery, refueling, lubrication or maintenance, including concrete washout, shall take place within 75 feet of any resource area.
37. The approved patio shall be constructed with permeable joints and an appropriate permeable subbase.
38. The area under the approved deck shall be treated with three inches of ¾"-1½" crushed stone.
39. The mitigation area plantings shall be installed, and seeding completed, in accordance with the final approved mitigation planting plan.
40. 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.
41. There shall be no discharge of any pool or hot tub (spa) 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.
42. 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.
43. 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.
44. 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.
45. The mitigation planting area shall be maintained with native plantings or shall be allowed to naturally revegetate with native species following planting and remain as naturally vegetated. This condition shall apply in **perpetuity** and shall not expire with the issuance of a Certificate of Compliance.

**Second:** Comm'r Mosher

**In Favor:** All

**Opposed:** None

**15 Ocean View Drive** – DEP 034-1415

Applicant: Carolyn & Patrick Malone

Representative: Patricia Van Buskirk, Patricia Van Buskirk Landscape Architecture, LLC

Proposed: Construction of a deck and "mini pool"

*Meeting Documents & Exhibits: Staff memo, and Revised Master Plan [submitted 6/11/21], Revised Master Plan 6/16/21, and Revised Narrative [submitted 6/16/21]*

*Excerpts from the staff memo: This hearing is continued from the 6/7/21 meeting to allow time for the representative to respond to comments from the Commission and staff. Since then, a revised plan was submitted, which includes a hot tub instead of a pool, staff provided follow up comments, and a second revised plan was submitted (dated 6/16/21). This plan also removed the previously proposed driveway reconfiguration from the scope of work. Staff provided the following additional comments to the representative: I took a closer look at the planting notes, and with regard to the mitigation planting area, the Commission typically wants to see the area between plants seeded with a conservation/wildlife type seed mix, as opposed to a mulch bed, if possible, for its increased value to the buffer and wetland resource areas. Note that if you want to propose a natural mulch around individual plants to help them not dry out while they are establishing then that wouldn't be an issue. The representative has agreed to do seeding, however the planting notes on the plan need to be revised. I've calculated what the Commission typically requires for mitigation plantings, which is 1:1 mitigation for new pervious structures/surfaces in the 50ft buffer, and 2:1 for new impervious in the 50ft buffer. I determined that 630 sf would be required, which is slightly more than the proposed 550sf.*

Vice Chair Kelly summarized the discussion from the last hearing noting that the plan had been revised, replacing the mini-pool with a hot tub. Representative Tricia Van Buskirk was present at the meeting and reviewed some of the changes on the plan; the 50 ft buffer line was added, mitigation plantings added, and a drywell outside of the 100 ft buffer. Designwise, the only change was that the pool was swapped out for a spa, all is within the 50 ft buffer and when the spa might be pumped, it will be pumped to a drywell located outside of the 100 ft buffer. Brief discussion followed regarding the best location for the silt sock. T. Van Buskirk added that rather than mulch between the mitigation plantings, they will use a conservation seed mix. Responding to a question from Comm'r Mosher, T. Van Buskirk stated that chlorine would be used in the hot tub. She added that the hot tub will sit on a concrete pad and explained that the drain in the concrete pad was for rainwater to drain.

Vice Chair Kelly invited any comments from the public. With no comments from the public, she closed the hearing to public comment.

**Motion:** Comm'r Mosher moved to issue an Order of Conditions for the proposed work at 15 Ocean View Drive (DEP 034-1415), as shown on the submitted plans, and adopt the findings of fact a through c, and special conditions 21 through 43 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.

Conditions:

21. 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.
22. This document shall be included in all construction contracts and subcontracts dealing with the work and shall supersede all other contract requirements.
23. The project supervisor or contractor in charge of the work shall have a copy of this Order available on the site at all times.
24. 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.
25. 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 and sediment control.
26. 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.
27. 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 630 square feet of plantings, including a mix of trees, shrubs and herbaceous species. 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.
28. 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.
29. Any debris, which falls into any resource area, shall be removed immediately by hand and properly disposed of at an off-site location.
30. All demolition and excavated material shall be properly disposed of at an off-site location.
31. Any on site dumpsters shall not be located within 30 feet of any resource area.
32. There shall be no stockpiling of soil or other materials within 30 feet of any resource area. All stockpiles that are not used for more than five days shall be covered and surrounded by erosion and sediment controls; straw wattles and/or hay bales shall not be used as a form of erosion and sediment control.
33. 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.
34. 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. Prior to construction, plans for the stilling pond or similar device shall be submitted to the Commission for review and approval.



35. No vehicle or other machinery, refueling, lubrication or maintenance, including concrete washout, shall take place within 50 feet of any resource area.
36. The area under the approved deck shall treated with a minimum of three inches of ¾"-1½" crushed stone.
37. The mitigation area plantings shall be installed, and seeding completed, in accordance with the final approved plan.
38. 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.
39. There shall be no discharge of any hot tub water or backwash within 100 feet of any resource area. Water shall be discharged into a drywell as shown on the final approved plan. This condition shall apply in **perpetuity** and shall not expire with the issuance of a Certificate of Compliance.
40. 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.
41. 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.
42. 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.
43. The mitigation planting area shall be maintained with native plantings or shall be allowed to naturally revegetate with native species following planting and remain as naturally vegetated. This condition shall apply in **perpetuity** and shall not expire with the issuance of a Certificate of Compliance.

**Second:** Comm'r Mooney                      **In Favor:** All                      **Opposed:** None

**Adjourn**

**Motion:** Vice Chair Kelly made a motion to adjourn the meeting at 8:27 pm.

**Second:** Comm'r Roby                      **In Favor:** All                      **Opposed:** None

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

Approved on July 12, 2021

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