



CONSERVATION COMMISSION MEETING MINUTES– July 8, 2019

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

Absent: None

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

Approval of Minutes

Motion: Commissioner Zane moved to approve the draft minutes from the June 3, 2019 and June 17, 2019 meetings.

Second: Commissioner Mooney

In Favor: All

Opposed: None

Certificates of Compliance

90 Chief Justice Cushing Highway – DEP 034-1021, continued from 6/17/19

Representative: Gary James, James Engineering

Applicant: Paul Iaria, Steam Shovel Farm LLC

Excerpts from the staff memo: *There was no staff memo prepared for this meeting. The memo prepared by Commission Hidell was included in the packet.*

Meeting Documents & Exhibits: *Commissioner Hidell's memo based on his site visit.*

Applicant Paul Iaria was present. Commissioner Hidell stated that in most respects the applicant had complied with pulling back the fill as required and the site was very clean; he didn't see anything that disturbed him. He added that they would need to file for future work. In regards to the existing order, he's fine with it now that they've pulled the material back and plantings are on the southern embankments, and thinks the Commission could sign off on it.

The C.O. asked if the Commission would like to see it restored with seed mix or planting and P. Iaria stated that those areas have already revegetated and Commissioner Hidell confirmed this. The C.O. noted that it revegetated naturally.

Brief discussion followed regarding the work anticipated for the future Notice of Intent with the C.O. reminding P. Iaria that the rear berm would need to be pulled back out of the 50 ft buffer. He responded that he thought they had done that. P. Iaria stated they would remain well outside the 50 ft buffer for the work moving back to the tracks. Commissioner Hidell asked how they would access the back of the lot with the rear berm there and P. Iaria stated that they would move the berm back towards the tracks using the berm material as part of the fill for grading. The C.O. asked if P. Iaria had a sense of whether or not all of the material would be needed and P. Iaria stated that they wouldn't know until they cut the trees. Commissioner Hidell concluded that the rear berm is temporary and stated that he doesn't have a problem with where they are now.

Commissioner Freeman asked about restoration work. The C.O. summarized that initially when the applicant had submitted their request for a COC, the Conservation staff found the fill and had questions about where the wetlands were. Commissioner Hidell and the Asst. C.O. have both visited the site, the applicant was directed to pull everything back out of the 50 ft. buffer, of which a portion of that has been done; the C.O. is not entirely certain that has happened with the rear berm. Commissioner Hidell and P. Iaria suggest that rear berm has been pulled out of the 50 ft buffer. The C.O. stated that she'd envisioned some reseeding or planting but P. Iaria has described it as fully vegetated already. She stated that if the Commission is comfortable with how the site is right now that any lingering issues can be addressed with the future Notice of Intent for work on the northern part of the site.

Motion: Commissioner Hidell moved to issue a Certificate of Compliance for 90 Chief Justice Cushing Highway, DEP 034-1021.

Second: Commissioner Mosher

In Favor: All

Opposed: None

191 Downer Avenue – DEP 034-1260, continued from 6/17/19

Applicant: Michael and Kerry Connolly

Excerpts from the staff memo: *This discussion is continued from the 6/3/19 meeting to provide time for an augmented salt marsh planting plan to be implemented. The plan was scheduled to be carried out on 7/2/19. Staff intends to inspect the work on 7/8/19 and as long as the plan was followed, staff recommends issuing a Certificate of Compliance.*

Meeting Documents & Exhibits: *Staff memo*

The C.O. informed the Commission that the salt marsh planting had taken place.

Motion: Commissioner Mosher moved to issue a Certificate of Compliance for 191 Downer Avenue, DEP 034-1260.

Second: Commissioner Mooney

In Favor: All

Opposed: None

83 Free Street - DEP 034-1302A

Applicant: Rob Thompson, Thompson Builders, Inc.

Representative: Rick Grady, Grady Consulting, Inc.

Excerpts from the staff memo: An Order of Conditions was issued in November 2017 for several additions and porches to an existing single family house as well as associated site grading. An Amended Order of Conditions was issued in December 2017 to increase the size of an addition and covered porch. Several minor field changes were subsequently approved, including adding a split rail fence at the rear, moving an existing stone wall, removing two additional trees, and pruning, but not removing, a large willow tree at the rear. Staff visited the site on 6/26/19. The as-built largely adheres to the final approved plan for the structure, however there are several discrepancies outside of this area where additional information is needed.

- Compensatory Flood Storage.
- Drywells sizing.
- Driveway and runoff.
- Landscaping/lawn/seeding.
- Erosion controls.

The Order included a perpetual condition that "The area encompassing the willow tree and yard waste piles shall be revegetated with native wetlands plant species; no new lawn will be established in this area." The Order also included a condition that only the tree approved by the Commission shall be removed. As noted earlier, the willow tree was pruned and not removed, and staff approved the removal of two maples as a field change. The yard waste has been removed and new native plantings were installed in this area and at the bottom of the slope to the rear and appear to be healthy, and the area is stable.

Meeting Documents & Exhibits: Staff memo and email from Rick Grady with comments (received just before the meeting)

The applicant and representative were unable to attend the hearing. There was no discussion and the hearing continued at the request of staff.

Motion: Commissioner Zane moved to continue the hearing for 83 Free Street, MA DEP 034-1302A to July 29, 2019.

Second: Commissioner Mosher

In Favor: All

Opposed: None

Request for Determination of Applicability

15 Howland Lane

Applicant: Lauren and Alex Carabelli

Proposed: Extension of patio

Excerpts from the staff memo: The applicant is proposing to replace and expand an existing patio, which is rotting, and associated walkway. The proposed patio and walkway would be 675sqft in total, including the area of replacement. The patio would be constructed with pavers and cobblestones, jointed with a polymeric sand. Two tiered retaining walls would contain the new patio area. An existing asphalt walkway would be replaced with pavers and cobblestones, and existing stairs to a lower lawn area would be removed and replaced with grass. Two new landscape beds (12ft x 4ft and 7ft x 4ft) are also proposed. All of the work is within the 100ft buffer zone to the bank of Cushing Pond. The expanded patio would come closer to the pond, approximately 57ft from the bank at the closest point. The existing stairs, to be removed, are approximately 53ft from the bank. The landscape beds would be within or adjacent to the new patio area.

Meeting Documents & Exhibits: Staff memo and the Carabelli's photos with details submitted as part of the application

Applicant Alex Carabelli summarized the proposal and confirmed that he had no issues with any of the conditions including the native species requirement in condition #6.

Motion: Commissioner Mosher moved to issue a Negative Determination of Applicability for the work proposed at 15 Howland Lane, as shown on the submitted plans, and adopt the findings of fact a and b, 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.

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 area.

4. All excavated material shall be properly disposed of at an off-site location.
5. Any debris, which falls into any resource area, shall be removed immediately by hand.
6. The proposed landscape beds shall be planted with predominantly ($\geq 75\%$) native species.
7. The Conservation Department shall be notified to any changes in plans prior to proceeding with said changed plans.

Second: Commissioner Mooney

In Favor: All

Opposed: None

72 Bonnie Brier Circle

Applicant: Diane and David Thureson

Proposed: Elevation of house and stair construction

Excerpts from the staff memo: *The applicant is proposing to elevate their existing single family house above the base flood elevation (BFE) of 10ft, as it is currently below BFE, and construct a 6ft x 20ft rear deck with associated stairs and landings, front stairs and landings, and a porch at grade with the second floor above. The rear deck and egress would have 10 footings and the front egress would have 10 footings. FEMA-approved breakaway panels would be installed under the house to allow for passage of flood waters. All of the work would be within Land Subject to Coastal Storm Flowage. The rear deck, stairs, and landings would be entirely within the 50ft buffer zone to Salt Marsh for a total of 204 sq.ft. in this area, as well as a small portion of the existing house to be elevated; the remaining work would be within the 100ft buffer zone.*

Staff visited the site on 6/27/19. Resource areas were not delineated on the site, however staff observed that salt marsh begins immediately adjacent to a low, loose stone wall just off the rear of the property. A drainage pipe discharges to the salt marsh just beyond the stone wall, presumably from street drainage as there is a drainage easement in this area. Staff recommends making no normal finding regarding the boundaries since salt marsh was not flagged or shown on a plan.

Structures in 50ft buffer zone and flood zone: *Except for ensuring resource areas are protected during construction, staff has no concerns with the proposal to raise the existing structure, which would allow at least some passage of flood waters and would be an improvement over the existing conditions. The stairs and landings appear necessary to provide access to the elevated structure and would be on footings, which could be considered a de minimis increase in footprint within LSCSF. The proposed deck would be a new structure within both the 50ft buffer zone and flood zone. The proposed work would be considered an expansion of an existing structure, however footings would allow free passage of flood waters. If the Commission is willing to permit the new structures in the 50ft buffer zone, then staff recommends requiring appropriate mitigation.*

*Staff observed two opportunities for mitigation on this property and proposed conditions for both, below. First, directly east of the proposed work, lawn extends to the stone wall that directly abuts the salt marsh beyond. Increasing the naturally vegetated buffer in this area, for example by planting a row of native shrubs, would be an improvement. Second, the property also extends to the south, beyond the garage and driveway, and in this area a stand of non-native, invasive Japanese knotweed (*Fallopia japonica*) is growing at the edge of the salt marsh along a fence that separates the marsh from an area developed with an inflatable pool and lawn. Although knotweed is unlikely to expand into the tidal marsh, it does outcompete native species in the buffer zone. The knotweed does not currently appear to be growing significantly in the vicinity on neighboring properties, thus removing these invasive plants before they spread would be a significant benefit to the resource area.*

Meeting Documents & Exhibits: *Staff memo and 'Existing and Proposed Conditions Plan' dated 6/13/2019*

The applicants, Diane and David Thureson, were present. Diane Thureson described the flooding issues and their proposal to raise the house 10 ft, add decking & stairs, with breakaway panels to allow floodwaters to flow through. She added that they want to raise it beyond the recommended height as they do not want to discover later that they should have gone higher.

The Commission discussed the regulations and the suggested mitigation for work within the 50 ft buffer, acknowledging that the stairs were a necessity but the 6 by 20 ft deck running the length of the house was larger than absolutely necessary and the deck would be considered an expansion of the existing structure. Diane Thureson described her interest in doing mitigation plantings of high bush blueberry and sweet pepperbush shrubs, but asked if she could plant them near the inflatable pool as the seawater doesn't come in there so much and they'd have a better chance of survival, as well as give some privacy when the knotweed is removed. The Commission agreed and worked out the language of the amended condition. Further discussion followed regarding the cutting back of the Japanese Knotweed with the Thuresons describing their longtime efforts of trying to keep the knotweed at bay.

Motion: Commissioner Mosher moved to issue a Negative Determination of Applicability for the proposed work at 72 Bonnie Brier Circle and adopt the findings of fact a through c, and conditions 1 through 7 of the staff report as amended.

(Condition 2 below reflects the language as amended)

Findings:

- a. The 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. Prior to the start of work, the applicant shall submit a planting plan to the Commission for review and approval, including at least ten (10) native shrubs to be planted in the 50 ft buffer zone.
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. There shall be no stockpiling of soil or other materials within 50 feet of the resource area.
5. Any debris, which falls into any resource area, shall be removed immediately by hand.
6. The applicant shall remove all Japanese knotweed (*Fallopia japonica*) from the property by hand at least twice a year during the growing season for at least two (2) consecutive growing seasons. Knotweed shall be removed by cutting stems and removing as much of the roots as is feasible. No herbicide shall be permitted.
7. The Commission shall be notified to any changes in plans prior to proceeding with said changed plans.

Second: Commissioner Mooney

In Favor: All

Opposed: None

232 Leavitt Street

Applicant: Zahi Harakeh

Proposed: Tree removals, site grading and installation of playset and shed

Excerpts from the staff memo: The applicant is proposing to remove a large number of trees at the rear of an existing single family house, fill and level a trenched area as well as a large area adjacent to the existing lawn, and install a playground set with a mulch surface, seating area, and shed. Some of the tree removals and fill would be within the 50ft buffer zone to a Bordering Vegetated Wetland associated with an intermittent stream on the property. Most of the remaining work would be within the 100ft buffer zone. See marked up site plan below. Tree removals are being proposed either due to proximity to the house, safety concerns, aesthetics, or to clear an area for the play/seating area. Filling is proposed due to safety concerns and eliminating the risk of the applicants' children falling in a trenched area, and additional filling is proposed to level the proposed play/seating area with the rest of the yard.

Staff visited the site on 6/26/19. Wetland resource areas were delineated in April 2019 by a wetlands consultant. Staff reviewed the flags in the vicinity of the proposed work and agrees with the delineation. Staff did not require flags to be surveyed onto a plan, thus staff recommends no finding regarding the boundaries of the delineation. Most of the BVW is located to the southeast of the existing house and the location of proposed work, however a portion extends northward near the proposed work. A drainage easement runs along the east side of the property and a pipe discharges to the wetland just south of the work area. The topography varies from flat to uneven, due to the presence of some rocks and boulders. The easement area is elevated above the adjacent wetland and upland to the east. It's unclear if the "trenched area" was excavated in the past or if this actually represents the original topography and the surrounding area was filled for the easement and the development of the lot. Staff also observed some leaves and yard waste dumped to the east of the easement, at the edge of the wetland.

Staff reviewed the proposed tree removals on site with the applicant. In the 50ft buffer zone, staff observed approximately ten trees that were in close proximity to the house, with many growing or leaning towards the house. The wetlands consultant, who is also a certified arborist, classified the leaning trees as hazard trees. At least some of the trees appeared to be healthy. One very large, mature red oak that appears healthy is proposed for removal in this area. Staff recommends requiring mitigation tree plantings for these removals. New trees could be planted slightly further from the house and/or smaller species could be planted. Additional trees were proposed for removal within the easement and closer to the wetland, within 20ft or closer, however this is a naturally wooded area with trees that are smaller and further from the house and the applicant agreed to leave them in place. Another 20+ trees are proposed for removal in the 100ft buffer, with approximately half being larger trees and half being small saplings. Many of these trees appear healthy. Staff recommends requiring mitigation tree or shrub plantings for these removals. Regarding filling, staff's main concerns are that lawn does not expand in the 50ft buffer and that fill does not extend into the elevated easement area, which could change the drainage patterns more significantly.

Given the location of some of the proposed work within a drainage easement, staff has advised DPW of the project and as of 7/3/19 had not heard back yet regarding any concerns.

Meeting Documents & Exhibits: Staff memo and revised packet submitted to Commission by the applicant at meeting

The applicant Zahi Harakeh distributed a packet to each Commission member with an updated narrative and photos and diagrams of the proposal. He described each aspect of the proposal; hazardous tree removals, leveling of a trench to be even with the rest of the lawn, and removal of trees and leveling in an undisturbed area within the 100 ft buffer for a playground with a mulch

base, shed and seating. He explained that two additional items that he'd like to add to the project are 1) a patio where currently there is lawn and a septic system at the back of the house and 2) a fence around the yard to keep out deer and coyotes.

Commissioner Freeman explained that she and Commissioner Hidell had been to the site and described the house as bordering the woods with a modest area of lawn. Commissioner Freeman stated that trees identified as a hazard, like the ones leaning towards the house, were understandably identified for removal; it was less clear to her that some of the larger, more distant trees had been identified as hazardous. Brief discussion followed about hazardous trees, white pines, clearcutting and the Commission's efforts not to lose trees within their jurisdiction.

Commissioner Hidell commented on the drainage easement and trench and stated that he was okay with it being filled. He stated that he understands Commissioner Freeman's reluctance regarding clearcutting but that the very large pines in that area are, from a life safety standpoint, not stable and he has concerns particularly with the increase in storms and microbursts.

The C.O. asked Z. Harakeh whether he had considered using the lawn area in the back left corner by the boulder wall for the playset. He responded that it's not level there, the hill slopes up and they would also prefer to have the playset closer to the house for safety and visibility. They plan to have mulch under the playset and would prefer not to cover existing lawn.

The C.O. suggested finding out the purpose of the Easement A and whether it would be okay for a fence to cover the rear area. She stated that the Commission has to be cautious about approving something that is contrary to an easement. Brief discussion followed regarding the easement.

The C.O. asked the applicant about the trees in the drainage easement, and if he'd considered leaving the trees there as he had discussed with the Asst. C.O. Z. Harakeh stated that he is okay about leaving the trees there as he didn't have any plans to do anything in that area, it was only for aesthetics that he had considered clearing it out, but he understands that area is closer to the wetlands. The C.O. commented that he is proposing to put up a fence in that area between his property and the easement anyway so access into that area would be limited. Z. Harakeh added that ideally he would like the fence to be right on the edge of the easement in order to benefit from the added height making it harder for deer to enter the property.

The C.O. summarized that in terms of tree removals there would be a small portion of trees that are leaning towards the house that fall within the 50 ft buffer and a larger number of trees that are in the 100 ft buffer in order to accommodate a play area/shed/picnic table. Commissioner Hidell requested that the arborist identify the trees he thinks he should take out within the 100 ft. buffer and suggested that he could do it on a photo. The C.O. asked if they would keep any select trees for shading. Z. Harakeh stated that with the fill for the grading covering the roots, any trees left in place would not likely survive.

Z. Harakeh agreed to continue to July 29th so he can research and provide the Commission with more details on the newer aspects of the proposal; the dimensions and materials of the patio and fence, as well as the details from the arborist.

Motion: Commissioner Hidell moved to continue the hearing for 232 Leavitt Street to July 29, 2019.

Second: Commissioner Zane

In Favor: All

Opposed: None

1 Stone Gate Lane

Applicant: Frank and Anne Luisi

Proposed: Additions and driveway relocation

Excerpts from the staff memo: The applicant is proposing to add a new 24ft x 24ft garage and relocate an existing driveway from Manatee Road, which is north of the house, to Stone Gate Lane, which is east of the house, due to safety concerns with a three-way intersection. Most of the existing driveway would be removed and converted to lawn. A kitchen addition and a deck would also be constructed at the rear of the existing house, and a porch addition would be constructed at the front of the house (dimensions not provided). The additions and most of the garage would be within the 100ft buffer zone to the BVW and Inland Bank. At least a portion of the work would be within Bordering Land Subject to Flooding.

Staff visited the site on 6/26/19. A stream with a narrow BVW is located to the rear of the house, where the stream enters a culvert. The BVW/Inland Bank was flagged by a wetlands consultant and staff agrees with the delineation. A planting bed is next to the stream and then lawn slopes up to the existing house. The kitchen addition and deck would be located just outside the 50ft buffer zone, in an area that is currently lawn and relatively flat. The garage would be mostly on the existing driveway, which is slightly lower than the surrounding landscape, and would extend into the lawn area off the east side of the driveway furthest from the stream. The new driveway would be installed in an area that is lawn, planting beds, and a retaining wall, which would be removed, and the driveway would pitch towards the garage. The application did not include information on how the driveway runoff would be handled. The front porch would be within existing lawn and landscape beds.

Flood zone: Staff's main concerns with the project relate to work proposed within Bordering Land Subject to Flooding on the property. Engineered plans were not submitted for this proposal, and instead an older site plan was marked up by hand, thus staff can only approximate where the FEMA-mapped flood zone (Zone A) is on the property. It appears to follow the eastern edge of the existing house, meaning that the proposed garage, addition, and deck would be within Bordering Land Subject to Flooding. The Hingham Wetland Regulations state in Part 2, Section 24.0 (6): "Expansion of existing structures in VE-, AE-, and A-Zones is prohibited. Reconstruction of existing structures must allow for free passage of flood waters." The proposed work would be considered an expansion of an existing structure. In addition, the floodplain is Zone A, with no associated elevation. The applicant previously applied for a Letter of Map Amendment (LOMA) from FEMA and the 2015 determination did not remove the structure from the flood zone.

This document listed the base flood elevation, as determined by FEMA, at 34.4 feet, and the lowest adjacent grade on site at 34.2 feet, which is the elevation where the house and driveway meet. The applicant provided documentation from his engineer from 2018 stating that he calculated the base flood elevation to be 31.78 feet, which would put all of the proposed work out of the flood zone, however there was no subsequent LOMA. Staff notes that FEMA is considering an adjustment to this particular Zone A polygon, per a current Workmap, as part of their restudy of the Charles Watershed. The draft polygon is smaller than what is currently depicted as the flood zone boundary and it appears the structure would not be in the flood zone if this map is adopted. If the Commission is willing to approve the work, staff recommends, at a minimum, requiring flood vents in the garage addition. The Commission will have to decide if compensatory flood storage should also be required.

Structures in 100ft buffer zone: New structures are proposed in areas that are currently vegetated as well as permeable. The Hingham Wetland Regulations state in Part 2, Section 23.7 (b): "The Commission may at its discretion allow a proposed structure on a wall-type foundation within 100 to 50 feet of the Resource Area, as defined in HWR 2.0 (1-5), if satisfied that mitigation required in the Order of Conditions is sufficient to protect the Resource Area." Staff recommends requiring mitigation for rooftop runoff from the proposed additions given the proximity to the resource areas and the topography sloping to the stream.

Finally, staff notes that a drainage easement runs along the northeast edge of the property and a portion of the work, including driveway removal, would be within the easement. The catch basin that currently collects driveway runoff is also within the easement. Staff has advised DPW of the project and as of 7/3/19 had not heard back yet regarding any concerns. It will be critical to ensure that the catch basin is protected during construction and until the area around it is fully stable.

Meeting Documents & Exhibits: Staff memo and 'Site Plan of Land' dated May 8, 2019 with hand drawn, color coded markups

Applicants Frank and Anne Luisi were present. F. Luisi described the various aspects of the proposal. The C.O. summarized and described the differences in base elevation. F. Luisi stated that if they went with the existing base flood elevation, they would have to retrofit the entire structure for flood protocol. Discussion followed about the elevations. The C.O. stated that from a 50 ft buffer standpoint, the project is fine. She described other flood zone A projects that had been approved by the Commission and stated that this particular project would not be setting a precedent; private engineers, fema draft maps and topography are all factors.

The Commission discussed the driveway reconfiguration and asked how much increase in impervious there would be and F. Luisi said that it was just about a wash (*between what exists now and proposed*). A. Luisi described that where the driveway would go is currently mostly mulch. The C.O. pointed out that much of the new driveway is outside of the Commission's jurisdiction and the floodplain. Commissioner Hidell did not feel that additional flood storage was necessary. The C.O. explained that she had included draft conditions that include flood vents and infiltration. Discussion regarding the condition followed and concluded that the condition was fine as written; if no flood vents are considered appropriate, the condition allows for that possibility. In regards to the catch basin, F. Luisi said DPW had come by and suggested that he just leave it; given the topography, it's a benefit to the Luisis.

Motion: Commissioner Mooney moved to issue a Negative Determination of Applicability for the work proposed at 1 Stone Gate Lane, as shown on the submitted plans, and adopt the findings of fact a through c, and conditions 1 through 8 of the staff report as amended.

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 Bordering Land Subject to Flooding 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. The existing catch basin shall be protected with a silt sack or equivalent.
2. Prior to the start of work, documentation from a qualified engineer showing the location and appropriate number of flood vents in the garage addition shall be submitted to the Commission for approval.
3. All erosion and sediment controls shall be maintained and 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. There shall be no stockpiling of soil or other materials within 50 feet of the resource areas.
5. No vehicle or other machinery, refueling, lubrication or maintenance, including concrete washout, shall take place within 50 feet of any resource area.
6. Any debris, which falls into any resource area, shall be removed immediately by hand.
7. Rooftop runoff from the garage and kitchen additions shall be infiltrated on site, using either drywells, infiltration chambers, or drip edge stone trenches.
8. The Conservation Department shall be notified to any changes in plans prior to proceeding with said changed plans.

Chair Freeman read the Public Hearing Notice of Intent.**Notices of Intent****155 Otis Street**- DEP 034-1340, continued from 6/17/19

Applicant: Peter and Dania Matheos

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

Proposed: Multiple additions, patio, and deck

Excerpts from the staff memo: The applicant is proposing to construct an open deck at grade under an existing elevated deck, three additions to an existing house and garage, and a patio with retaining wall at the rear of the existing house. In addition, the existing driveway will be widened, an existing covered breezeway will be widened and enclosed, and a temporary stone driveway will be constructed in the lawn to the rear of the house for construction access. Three trees will be removed in association with this work. The additions will be on full foundations. The deck will be within the 50ft buffer zone. The garage addition, driveway work, and portions of the breezeway, rear house addition, and patio will be within the 100ft buffer zone. Land Subject to Coastal Storm Flowage (Zone AE) is present on a portion of the property. No permanent work is being proposed within this resource area, however the temporary stone driveway is likely to be within LSCSF.

Staff visited the site on 6/12/19. The property directly abuts Hingham Harbor, with an existing stone seawall acting as the Coastal Bank, and the land slopes from the street steeply, then gradually to the resource areas. The property is developed with a single family house, carriage house, patio, driveway, and a large lawn area as well as garden areas and a few scattered trees. Although a number of improvements are proposed, only a portion of the work is within jurisdictional areas. The proposed deck within the 50ft buffer zone will be under an existing deck within the same footprint and over an area that is currently peastone and will remain peastone, so it will continue to be permeable. The garage addition will be within an area that is currently paved driveway. The driveway will expand slightly within the 100ft buffer zone, however the representative has indicated that a revised plan will be submitted showing driveway runoff being captured by a trench drain and directed to a grass swale for infiltration. The expanded, covered breezeway and rear house addition will be within areas that are currently lawn, landscape beds, or existing structure. The increase in impervious area within the 100ft buffer zone will be 780sqft. The representative has indicated that runoff from the additions will be directed to downspouts and splash pads in lawn areas. Three trees will be removed to accommodate the expanded patio and rear house addition. As these trees appear to be healthy, staff recommends requiring replacement plantings. Finally, staff noticed a small amount of grass clippings had been deposited in eroding areas in the lawn near the seawall.

Staff anticipates that revised plans will be submitted by the representative with additional details including dimensions/area of the proposed additions and patio, clarification that the existing deck will remain above the new deck, driveway runoff mitigation including a trench drain and grass swale, rooftop runoff to downspouts and splash pads, erosion and sedimentation controls to be 12" filter socks with proper staking, location of temporary stone access drive, and possibly plantings. If this information is received and the Commission is satisfied, 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, plans 'Site Plan for 155 Otis Street' revised 6/13/19 and '155 Otis Street Planting Diagram' submitted and dated 7/8/19

Paul Mirabito from Ross Engineering, Heidi Condon, Residential Designer, and applicants Peter and Dania Matheos were present for the hearing. P. Mirabito presented all aspects of the proposal on the revised plan including the elevation of the seawall ranging from 9.8 to 9.6, the 50 and 100 ft buffer zones, and the temporary construction driveway within the 50 ft buffer. He noted that all work will take place in Zone X with the exception of the temporary driveway. He pointed out the various additions and described the trench drain. When asked about the area marked in green behind the garage he explained that is proposed to be an open deck on crushed stone in the same footprint as the deck above it. H. Condon explained that it will be supported by the existing posts. The C.O. stated that the revised plans address the additional details staff had listed in the staff memo.

The C.O. pointed out condition #18 requiring planting of 3 native trees since 3 healthy trees were being removed in the 100 ft buffer. P. Matheos stated that there were two conditions that he had questions about. The first was to do with mitigation plantings and condition #18. They would rather not plant trees that would block the view. He suggested that they would instead like to eliminate a large section of lawn along the seawall and replace the lawn with native plantings. A planting plan was distributed to the Commissioners. The Commission and the C.O. agreed that it was satisfactory. The Commission revised the language of condition #18 to reflect the change in mitigation plan concluding with 'A 620 square foot area of existing lawn shall be removed and replaced with native species as depicted in the planting diagram dated 7-8-19 as mitigation for tree removal.'

The second condition that P. Matheos had a question about was the draft condition #23 referring to the seawall, repair and in perpetuity. He stated that the seawall was damaged in 2018 and they do intend to file a Notice of Intent to repair the seawall. He would prefer that whatever determinations in regard to the seawall be made at that time rather than as part of this Notice of Intent.

In response to a question from Commissioner Freeman, the C.O. explained that the draft condition is similar to what has

been used before when there is new construction near a seawall; trying to keep vertical seawalls to a minimum both in terms of footprint and height. She further explained that it is a merger of recommended language from the state regulations and Hingham's regulations which have language dedicated to coastal engineering structures being sloped and loose stone instead of vertical seawalls. P. Mirabito suggested that condition #23 be removed because should the Matheos plan work on the seawall in the future, the regulations compel them come back and file for the permits necessary to do that work. He suggested that the problem is that the condition applies in perpetuity; there may be things the Matheos can do that would not be consistent with condition #23. The C.O. pointed out that the condition allows them to maintain, repair or replace the seawall, just not permit it to be knocked down and replaced with something much larger; a Notice of Intent to maintain, repair or replace it would be approved, even with this condition in place. P. Mirabito argued that, if for some reason, a coastal engineer determined that something other than a simple replacement or repair would be warranted, the way the condition is written, it wouldn't be allowed.

The C.O. read aloud from the MA DEP regulations, "The Order of Conditions and the Certificate of Compliance for any new building within 100 feet landward of the top of a coastal bank permitted by the issuing authority under M.G.L. c 131 §40 shall contain the specific condition: 310 CMR 10.30(3), promulgated under M.G.L. c.131,§40, requires that no coastal engineering structure, such as a bulkhead, revetment, or seawall shall be permitted on an eroding bank at any time in the future to protect the project allowed by this Order of Conditions. She explained that the condition required by DEP is working under the assumption that there is not an existing structure in place; staff modified that and the modification was first used for 25 Beach Road, stating that "the existing coastal engineering structure may be maintained, repaired and replaced but not substantially changed or enlarged in order to protect....." and the intent of the language is to keep the same type of structure that is there.

Commissioner Freeman asked the C.O. if the applicant were to come back and not just try to rebuild or repair, but to make the wall higher, would it be rejected automatically based on the state regulations. The C.O. stated that it would not, that the state regulation is specific to projects that don't already have a coastal engineering structure on the coastal bank. Further discussion followed with P. Mirabito restating that this project does not propose any work on the seawall and the applicant will have to come back and file the required permits with the town and the state. The C.O. reiterated her reason for including the condition in the order. Commissioner Mosher suggested that the condition could read '.....but not substantially changed or enlarged in order to protect the project approved by this Order of Conditions unless approved by the Commission.'; dropping the last sentence that refers to 'in perpetuity'. The Commission felt this was a good compromise and the applicant and representative agreed to the change. Commissioner Freeman stated that the last sentence could simply be removed.

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

Motion: Commissioner Zane moved to issue an Order of Conditions for the proposed work at 155 Otis Street (DEP 034-1340), as shown on the submitted plans, and adopt the findings of fact a and b, and special conditions 1 through 23 of the staff report as amended.

(The conditions as listed below reflect the amendments).

Findings:

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

Conditions:

1. *The applicant shall notify the Hingham Conservation Commission in writing of the name, address, and telephone number(s) of the project supervisor or contractor who shall be responsible for ensuring compliance with this Order and shall notify the Commission, by telephone or writing, at least 48 hours prior to commencement of work on the site.*
2. *This document shall be included in all construction contracts and subcontracts dealing with the work and shall supersede all other contract requirements.*
3. *The project supervisor or contractor in charge of the work shall have a copy of this Order available on the site at all times.*
4. *Prior to the start of any excavation or construction, there shall be a pre-construction conference on the site between the project supervisor or contractor responsible for the work and an agent of the Commission to ensure that the requirements of this Order are understood.*
5. *Prior to the start of any excavation or construction, erosion and sediment controls shall be installed, as shown on the final approved plan, and inspected by an agent of the Commission; straw wattles and/or hay bales will not be used as a form of erosion or sediment control.*
6. *Erosion and sediment controls shall remain in place until all disturbed or exposed areas have been stabilized with a final vegetative cover or the Commission has authorized their removal.*

7. 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.
8. Any debris, which falls into any resource area, shall be removed immediately by hand.
9. Any on site dumpsters shall not be located within 100 feet of any resource area.
10. There shall be no stockpiling of soil or other materials within 50 feet of any resource area.
11. 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.
12. 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.
13. No vehicle or other machinery, refueling, lubrication or maintenance, including concrete washout, shall take place within 100 feet of any resource area.
14. 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.
15. All grass clippings, lawn waste, brush, leaves, or other materials dumped in the wetland resource areas or buffer zone shall be removed, and the practice discontinued, in accordance with Section 23.6 of the Hingham Wetland Regulations.
16. The area under the new deck shall be maintained as peastone or another permeable surface.
17. Rooftop runoff for the new additions shall be directed to downspouts with splash pads for scour protection, and then to adjacent lawn areas.
18. A 620 square foot area of existing lawn shall be removed and replaced with native species as depicted in the planting diagram dated 7-8-19 as mitigation for tree removal.
19. The temporary stone drive shall be removed following construction and the area restored to lawn. No change in grade shall be permitted.
20. The applicant shall apply for a Certificate of Compliance as soon as work has been completed and prior to the expiration of this Order. If work cannot be completed prior to the expiration of this Order, the applicant shall contact the Commission in writing to apply for an extension at least thirty days prior to the expiration date.
21. The applicant shall submit an "as built" plan to the Commission upon completion of this project. The plan shall be signed by the professional engineer of record, who shall certify that the work has been done in accordance with the approved plans and this Order. This plan must be submitted prior to the issuance of a Certificate of Compliance by the Commission.
22. Prior to the issuance of a Certificate of Compliance, the mitigation plantings shall survive at least two full growing seasons with a minimum of 75% survival rate.
23. The existing coastal engineering structure, consisting of a seawall, may be maintained, repaired, or replaced, but not substantially changed or enlarged in order to protect the project allowed by this Order of Conditions unless approved by the Commission.

Second: Commissioner Mooney

In Favor: All

Opposed: None

24 Butler Road- DEP 034-1341, continued from 6/17/19

Applicant: Richard and Lorna Larracey

Representative: Brad Holmes, ECR, LLC

Proposed: Multiple additions, patio, and deck

Excerpts from the staff memo: The applicant is proposing to replace their existing wastewater disposal system, which is located 25-30 feet from a Bordering Vegetated Wetland, with a new, upgraded system, which would be located approximately 27 feet from the BVW and over 50 feet from the edge of a Certified Vernal Pool. New system components would be no closer to the BVW or Vernal Pool than the existing system and would be almost entirely within existing lawn. The soil absorption system (leaching facility) would be located over 100 feet from the vernal pool and over 50 feet from the BVW. No additional flow is anticipated as a result of this project. Also proposed is a new water service line in the 100ft buffer zone, over 70 feet from the BVW. Erosion controls would be installed prior to the start of construction.

Given the limited site area available for the replacement project, and that the Title 5 compliant system would be an improvement over the conditions, staff recommends that the Commission issue an Order of Conditions for the work. Staff observed a small amount of grass clippings in the buffer zone and recommends an additional condition regarding the removal of this material.

Meeting Documents & Exhibits: Staff memo and 'Proposed Septic System 24 Butler Road Hingham Massachusetts' plan dated 1/2/15

Brad Holmes, ECR, LLC explained that this proposal is the same as one submitted and approved years ago for which the work was never begun and the Order of Conditions had expired. The C.O. pointed out that the draft conditions were close to the

same ones as in the original OOC however there was one additional condition calling for the removal of grass clippings from the buffer zone.

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

Motion: Commissioner Mosher moved to issue an Order of Conditions for the proposed work at 24 Butler Road (DEP 034-1341), as shown on the submitted plans, 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 the Certified Vernal Pool 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, as shown on the final approved plan, and inspected by an agent of the Commission; straw wattles and/or hay bales will not be used as a form of erosion or sediment control.
6. Erosion and sediment controls shall remain in place until all disturbed or exposed areas have been stabilized with a final vegetative cover or the Commission has authorized their removal.
7. 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.
8. Any debris, which falls into any resource area, shall be removed immediately by hand.
9. Any on site dumpsters shall not be located within 50 feet of any resource area.
10. There shall be no stockpiling of soil or other materials within 25 feet of any resource area.
11. 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.
12. 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.
13. No vehicle or other machinery, refueling, lubrication or maintenance, including concrete washout, shall take place within 50 feet of any resource area.
14. 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.
15. All grass clippings, lawn waste, brush, leaves, or other materials dumped in the wetland resource areas or buffer zone shall be removed, and the practice discontinued, in accordance with Section 23.6 of the Hingham Wetland Regulations.
16. 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.
17. 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.

Second: Commissioner Mooney

In Favor: All

Opposed: None

6 Dwiggins Pathe- Bylaw 2019-17, continued from 6/17/19

Applicant: John Mark and Karen Sloan

Representative: Brad Holmes, ECR Consulting

Proposed: Covered deck extension

Excerpts from the staff memo: The applicant is proposing to construct a 315sqft covered deck, replacing an existing open deck, which is approximately 210sqft. The proposed deck would be on footings similar to the existing deck. At its closest point, the deck would be approximately 56ft from an Isolated Vegetated Wetland and approximately 66ft from a Certified Vernal Pool contained within the wetland. Rooftop runoff is proposed to be infiltrated by drip edge stone trenches, a.k.a. gravel drip strip. An existing playground area, totaling approximately 550sqft, is proposed to be restored by removing the existing play equipment and weed mat, replanting with native shrub species and seeding the remaining area with a conservation seed mix. This area is partially within the 50ft buffer zone to the IVW.

Staff visited the site on 6/10/19. Staff reviewed the wetland and vernal pool flags and is in agreement with the delineation. Besides the existing deck, the new deck would cover an area that currently consists of a sloped landscape bed with plantings and a low retaining wall. A low fence borders the lawn and abuts a sloping, naturally vegetated, wooded buffer to the resource areas. To the south, the fence ends and a lawn area extends between the driveway and wooded area, with play equipment set back on the slope at a lower elevation than the adjacent lawn, and in closer proximity to the wetland than the rest of the developed portions of the lot. It is not clear if the installation of this play equipment was permitted by the Commission. Staff agrees that this is an ideal location for restoration based on the surrounding topography and proximity to the resource areas, and it would extend the naturally vegetated buffer to the resource areas.

The Hingham Wetlands Protection By-Law states, "Except as authorized by the Commission, no activity or alteration shall be permitted within one hundred (100') feet of a vernal pool..." The Commission will need to determine if the proposed restoration of the buffer zone and stormwater mitigation for rooftop runoff are appropriate mitigation for the proposed work. With the proposed mitigation, staff does not believe the proposed work will have a negative impact on the resources areas.

Meeting Documents & Exhibits: Staff memo and 'Building Permit Plan 6 Dwiggins Pathe Hingham, MA' revised and dated 6/13/19 and 'Proposed Mitigation Schematic 6 Dwiggins Pathe, Hingham' submitted at hearing.

Brad Holmes, ECR LLC, described the resource area, an isolated vegetated wetland with a certified vernal pool, and summarized the proposal. He explained that this application was filed under the Hingham wetland bylaw only as the state regulations do not have any protections for isolated vegetated wetlands.

B. Holmes described the proposal. He explained that the deck would be on sonotubes and that a portion of the deck would have a roof. They propose that the roof over the deck will collect rain to a gravel drip strip or stone trench to infiltrate the run off. Commissioner Hidell asked for clarification regarding where the water will run off the roof. B. Holmes confirmed that the water will run off the roof onto the deck below and percolate through to the gravel area below. B. Holmes stated that the Asst. C.O. had been interested in mitigation and he suggested that an existing playground and weed mat be removed and revegetate the area with native buffer shrubs and seed mix. He summarized that the project is occurring outside the 50 ft buffer, in an area that is already developed, and is minimal in scope.

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

Motion: Commissioner Mooney moved to issue an Order of Conditions for the proposed work at 6 Dwiggins Pathe (Bylaw 2019-17), as shown on the submitted plans, and adopt the findings of fact a and b, and special conditions 1 through 19 of the staff report.

Findings:

- a. The project meets the submittal requirements for issuance of an Order of Conditions under the Town of Hingham Wetland Regulations.
- b. The work described is within an area subject to protection under the Town of Hingham Wetland Regulations, and will not alter or adversely affect the area subject to protection under the Regulations.

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, as shown on the final approved plan, and inspected by an agent of the Commission; straw wattles and/or hay bales will not be used as a form of erosion or sediment control.
6. Erosion and sediment controls shall remain in place until all disturbed or exposed areas have been stabilized with a final vegetative cover or the Commission has authorized their removal.
7. 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.
8. Any debris, which falls into any resource area, shall be removed immediately by hand.
9. Any on site dumpsters shall not be located within 50 feet of any resource area.
10. There shall be no stockpiling of soil or other materials within 50 feet of any resource area.
11. 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.
12. 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.
13. No vehicle or other machinery, refueling, lubrication or maintenance, including concrete washout, shall take place within 50 feet of any resource area.
14. 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.
15. Rooftop runoff for the covered deck shall be infiltrated on site using drip edge stone trenches.
16. Mitigation plantings shall be installed in accordance with the final approved plans. The restoration area shall be left as naturally vegetated and shall not be maintained as lawn or landscaped area. This condition shall apply in **perpetuity** and shall not expire with the issuance of a Certificate of Compliance.
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. 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.
19. 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.

Second: Commissioner Zane

In Favor: All

Opposed: None

37 Stagecoach Road DEP 034-1342

Applicant: Aaron and Julie Houle

Representative: Brad Holmes, ECR Consulting

Proposed: Swimming pool and addition

Excerpts from the staff memo: *The applicant is proposing to install a 16ft x 34ft in-ground swimming pool with a surrounding patio and associated fence, as well as a 22ft x 22ft addition to an existing single-family house. All of the work would be within the 100ft buffer zone to a Bordering Vegetated Wetland. The pool fence and patio would be 51.8 feet from the wetland at the closest point. No tree or shrub removals are proposed.*

Staff visited the site on 6/24/19. Wetland resource areas were delineated in March 2019 by a wetlands consultant. Staff reviewed the flags and is agreement with the delineation on this property, with the exception of the area near the northern property line and wetland flags A3 and A4. The land slopes slightly downward in this area and there were wetland plants located just outside the flagged area, so staff feels the wetland may extend slightly eastward in this area, however even with this minor adjustment, staff does not think the limit of work would come closer than 50 feet to the BVW. Staff also observed a drainage pipe that discharges to the wetland on this property, thus there may also be an intermittent stream within the BVW on the property. Existing conditions in the location of the proposed pool include a flat area of established lawn. In the location of the proposed addition, there is a deck at grade, a portion of an elevated deck and stairs, and lawn. Staff also observed dumping of leaves and other yard waste in close proximity to the wetland.

The Hingham Wetland Regulations state in Part 2, Section 23.2 (2): "The Commission may at its discretion allow a proposed pool or tennis courts and all associated structures and facilities if they are at least 50 feet from a Resource Area, as defined in HWR 2.0 (1-5) if it is satisfied that mitigation required in the Order of Conditions is sufficient to protect the Resource Area." Staff recommends requiring mitigation for the new permanent structure and increased impervious area in the buffer zone. Staff observed two

opportunities for mitigation on this property and proposed conditions for each, below. First, in the southeast corner of the lot, there is a finger of lawn that extends between the existing landscape beds. Beyond this area of lawn is the location where staff observed yard waste dumping. This area could be closed off in some manner and planted, or allowed to naturally revegetate. Second, near the northern property line where staff questioned the wetland delineation, a small landscape bed abuts the wetlands with lawn adjacent to it, thus increasing the naturally vegetated buffer to the wetland in this area would be a benefit. For the proposed addition, given the size of the addition and the flat topography and distance to the resource area, staff does not think rooftop runoff mitigation is necessary.

The application does not address pool maintenance or discharge of pool water or backwash, if applicable. This information should be provided. Staff recommends requiring, at a minimum, that there is no discharge of pool water within the 100ft buffer zone.

Meeting Documents & Exhibits: Staff memo and 'Site Plan for 37 Stagecoach Road in Hingham, MA' dated 4/23/19

Representative Brad Holmes, ECR, LLC was present along with the applicant, Aaron Houle. Brad Holmes described the wetland resources and summarized the proposal. Brief discussion followed regarding the discharge of the pool water with B. Holmes stating that he didn't see a problem with discharging it outside of the 100ft buffer or it might also be trucked off.

B. Holmes noted that no work is proposed within the 50 ft buffer but the applicant is not opposed to mitigation and proposed adding native buffer shrubs in the landscape bed providing additional protection within the buffer strip. B. Holmes stated that he'd spoken to the applicant regarding the yard waste and the applicant explained he's actually removed much of it since they moved there, however, any new debris would be removed and no more added. B. Holmes stated that in the area where the grassed strip leads back to the woods, the applicant had planted some hydrangeas and roses and they could add in some native shrubs. The C.O. asked for clarification as the site visit photos simply showed the grass strip. A. Houle stated that they'd planted earlier in the year and some of the shrubs hadn't taken. The C.O. explained that by eliminating the grass strip and joining the two landscape beds, the dumping of debris would be discouraged. A. Houle stated that he would be willing to eliminate the grass strip and plant there.

Commissioner Hidell asked where the drain pipe that cuts diagonally across the yard and the 20 ft wide drainage easement is coming from. A. Houle stated that he believes it goes across their yard and under the neighbor's yard and there's a stream that runs along the side of that yard. B. Holmes stated that Ross Engineering surveyors had pointed out that the pipe is in one location and the easement is in probably the wrong location. Brief discussion followed regarding the water flow, contours, and whether or not there is a swale; B. Holmes stated that it is all lawn there and there is no visible swale conveying water.

Commissioner Freeman summarized that the pool is outside of the 50 ft buffer and they are providing mitigation. Brief discussion followed regarding the draft condition addressing mitigation. The C.O. explained the reasoning behind removal of the grass strip leading back to the dumping area and A. Houle confirmed that they were okay with eliminating that and filling it in with native shrubs. The Commission concluded to amend the draft condition to be less specific about the mitigation location and require simply the submittal of a planting plan for review and approval.

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

Motion: Commissioner Hidell moved to issue an Order of Conditions for the proposed work at 37 Stagecoach Road (DEP 034-1342), as shown on the submitted plans, and adopt the findings of fact a through c, and special conditions 1 through 20 of the staff report as amended.

(The conditions as listed below reflect the amendment).

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 finds that the wetland boundaries are accurate with the exception of WF A3 and A4, where the wetland may extend slightly further to the east.

Conditions:

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

5. Prior to the start of any excavation or construction, erosion and sediment controls shall be installed, as shown on the final approved plan, and inspected by an agent of the Commission; straw wattles and/or hay bales will not be used as a form of erosion or sediment control.
6. Erosion and sediment controls shall remain in place until all disturbed or exposed areas have been stabilized with a final vegetative cover or the Commission has authorized their removal.
7. Prior to the start of any excavation or construction, a planting plan shall be submitted to the Commission for review and approval.
8. During all phases of construction, all disturbed or exposed areas shall be brought to a finished grade and either a) loamed and seeded for permanent stabilization, or b) stabilized in another way approved by the Commission.
9. Any debris, which falls into any resource area, shall be removed immediately by hand.
10. Any on site dumpsters shall not be located within 100 feet of 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 100 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. All lawn waste, brush, leaves, or other materials dumped in the wetland resource areas or buffer zone shall be removed, and the practice discontinued, in accordance with Section 23.6 of the Hingham Wetland Regulations. This condition shall apply in **perpetuity** and shall not expire with the issuance of a Certificate of Compliance.
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 area plantings shall survive at least two full growing seasons with a minimum of 75% survival rate.

Second: Commissioner Mooney

In Favor: All

Opposed: None

85 Tower Road DEP 034-1343

Applicant: Gerard Rankin

Representative: Gary James, James Engineering, Inc.

Proposed: Construction of new single family home, driveway, and septic system

Excerpts from the staff memo: *The applicant is proposing to demolish the remains of an existing single family house, which only consists of a foundation and associated retaining wall, walkways, and driveway, and construct a new 2,727 sq.ft. single family house, a 1,918 sq.ft. carriage house, walkways and driveway, septic system and other utilities, grading, and landscaping. The site currently consists of two parcels, one containing the remains of the old house and the other is an undeveloped lot at 0 Tower Rd. The wetland resource areas are located on the 0 Tower Rd. parcel as well as abutting properties. A portion of the work would be within the 100ft buffer zones to Bordering Vegetated Wetlands associated with two intermittent streams. This work includes the new septic system, grading, and an outlet for driveway runoff. The existing driveway, which is proposed to be removed, extends into the 50ft buffer zone. A Potential Vernal Pool is located in the vicinity, within BVW. Bordering Land Subject to Flooding (Zone AE) is also located on the 0 Tower Rd. parcel, but no work is proposed in this area.*

Staff visited the site on 6/27/19. Staff attempted to verify the wetland delineation, however there were several issues. First, the wetland flags shown on the submitted plans appear to be from an old delineation, based on the fact that many flags were missing or torn with no numbers visible. In addition, staff found a 2015 plan from an abutting property that showed some of the same wetland flags. The BVW/stream to the northeast had been flagged more recently, as many new flags were also observed in this area, however

these flags were not on the submitted plans. Staff subsequently received a wetlands report indicating that the wetland resource areas to the northeast had been flagged in February 2019 and the wetland resource areas to the south had not been reflagged. The wetland delineation issues need to be resolved before staff can verify the delineation and complete the project review. Staff relayed comments to the representative, who intended to resolve them.

Staff recommends continuing the hearing to allow time for the representative to address the wetland delineation issues.

Meeting Documents & Exhibits: Staff memo

Discussion: Immediately prior to the meeting, the applicant's representative had emailed a request to continue to the next hearing.

Motion: Commissioner Hidell moved to continue the hearing for 85 Tower Road (DEP 034-1343) to July 29, 2019.

Second: Commissioner Mooney

In Favor: All

Opposed: None

111 Weir Street (formerly #105)- DEP 034-1326, continued to 9/23/2019

Applicant: John Woodin

Representative: Gary James, James Engineering, Inc.

Proposed: Construction of new single family home and driveway

Other Business

a. Residents' concerns regarding mosquitoes at Fee Pond

The Commission discussed the residents' concerns concluding that the Plymouth County Mosquito Control (PCMCP) is the best resource for advice and assistance. The C.O. explained that the residents have said that PCMCP have come in the past but that only the yards are sprayed from the back of a truck and that it's not getting at the potential heart of the problem, Fee Pond. The C.O. added that it's not likely the only source of mosquitoes in the area. The C.O. explained that the reason this is before the Commission is because the pond is actually Commission property. She also expressed her concern about setting a precedent by taking actions on this pond. The Commission acknowledged that mosquitoes are a nuisance but they come with the territory when living near a pond, and asked the C.O. to direct the residents to work with PCMCP.

b. Sign Emergency Certification for repair to POW/MIA Memorial Park seawall

The C.O. explained that DPW had pursued the same work a year ago for work on the seawall, it's unclear if conditions worsened since then or if the work hadn't happened, but they had started the emergency work. The C.O. was able to sign a temporary signoff until the Commission could meet and sign off. The initial repair was for stabilization; excavating, stabilizing with filter fabric and filling with loam and seeding. Two excavator scoops into the soil, DPW encountered a petroleum smell. MA DEP was called in, soils were contained in plastic, and testing has happened. The C.O. is unsure of the status of the repair work. Now the focus is on remediation and the grant funds designated for the stabilization work will be used instead for the remediation work. So everything that the emergency certification was written up for will not actually be happening, but the emergency certification still needs the Commission's signature ratifying it, it cannot simply be the C.O.'s signature.

c. Appoint Conservation Commission Vice Chair

Commissioner Zane volunteered to be the Vice Chair.

d. Appoint representative to Master Plan Committee

Commissioner Hidell and Commissioner Freeman volunteered to share the position of representative to the Master Plan Committee.

Commissioner Freeman adjourned the meeting at 9:23 pm.

Submitted, _____
Sylvia Schuler, Administrative Secretary

Approved on July 29, 2019

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