



APPROVED MINUTES
Conservation Commission Meeting
Date: 4/6/23 Time: 6:30 PM
Presented on a ZOOM Platform

In Attendance

Chris Macfarlane (CM), Chair
Tom Bell (TB), Vice Chair
Kathy Berigan (KB), Secretary
Will Ashton (WA), Member
Chris McIntyre (CI), Member

Absent

Eric Eisenhauer

Staff in Attendance

Charlotte Pechtl (CP), Conservation Agent
Angela Geso, Recording Secretary

Call to Order ~ Open Meeting

Roll Call Attendance:

T. Bell – Aye; K. Berigan – Aye; C. McIntyre – Aye; C. Macfarlane – Aye; W. Ashton – Aye

Abbreviations Used

Bordering Vegetated Wetland (BVW); Notice of Intent (NOI); Coastal Zone Management (CZM); Operations and Maintenance (O&M); Stormwater Permit (SWP); Beach Maintenance Plan (BMP); Sandy Beach Association (SBA)

NOI 23-10:

Wompatuck State Park – Restore Access to Stream (con't from 3/23/23)

In attendance: Peter Williams (PW) and S. Luoma (SL)/DCR/Friends of Wompatuck State Park

Documents presented: Proposed Plan, Existing Plan

This project has a stone ford across an intermittent stream that is backing up water flow. They want to remove the stone ford and install a bridge and a boardwalk to facilitate flow. Water currently blocked by the ford flows down into the trail area and makes it unpassable. They have removed the flood compensation area and are using the area of stone removal to compensate for new volume. They are proposing 52 sq. ft. of wetland mitigation. CM asked what they will do with the stones that are removed and PW said they have been removed from the site and will be used at other sites. CI said it looks like there is already an existing higher ground trail and PW said there are two (2) trails, one of which is extremely steep. TB is concerned with the boardwalk decaying over time and wants to have an alternative to the plan. CM said we can either deny the request and keep the trail as it is or approve the permit and implement boardwalks and a bridge. PW said proposing a new trail would evaluate alternatives but maintaining and existing trail is different. WA said it is unrealistic to have an alternate route and prefers making the existing trail better. He agrees with PW regarding less impact. PW said the boardwalk will prevent people from walking outside the trails when wet. He is trying to mitigate as much as possible but wants to encourage people to use the park.

MOTION:

By Chair Macfarlane to close the public hearing and issue an Order of Conditions for NOI 23-10 at Wompatuck State Park with the following conditions:

- **Mitigation landscaping needs to be presented to Agent Pechtl with 60 days of the close of the hearing.**
- **Some restrictions will be placed during construction to see the Bordering Vegetated Wetland (BVW) won't be compromised.**
- **A kiosk or sign explaining the value to the wetland and why people need to stay in the trail.**

SECOND: By Vice Chair Bell
ROLL CALL VOTE: T. Bell – Aye; K. Berigan – Aye; C. McIntyre – Aye; C. Macfarlane – Aye; W. Ashton – Aye
MOTION PASSES: 5-0-0 Unanimous

MOTION: By Chair Macfarlane for a variance to do work within the resource area for NOI 23-10 at Wompatuck State Park.
SECOND: Member Ashton
ROLL CALL VOTE: T. Bell – Aye; K. Berigan – Aye; C. McIntyre – Aye; C. Macfarlane – Aye; W. Ashton – Aye
MOTION PASSES: 5-0-0 Unanimous

NOI 23-06: 85 Jerusalem Road – Deck, Posts, Landscaping (con't from 3/2/23)
In attendance: Bart Lipinski (BL)/Grady Consulting; Yvonne Munro (YM)/Applicant
Documents presented: Site Plan & Current Conditions

The proposed plan is to put in a stone firepit and plant beds, new steps for a lower yard, boulders to raise grade up and install a second deck for access from the driveway. The existing deck needs footings and posts and the view corridor is to be open as much as possible. Invasives from the wetlands are coming back into the yard and should the applicant use a different plant or remove the invasives completely. They decided to remove the beds to avoid invasives. TB would like the fire pit to be moved out of the 50-ft. buffer zone and move it further up the hill as far from the wetlands as possible. BL said there will be mitigation and he proposes 340 sq. ft. of impervious material. CM said the house is within the 50-ft. buffer zone. TB said it looked like the firepit had been moved completely out of the 50-ft. buffer zone but needed verification. CI had an issue with the firepit, so BL suggested to either get half of the firepit out of the 50-ft. buffer zone or get the firepit completely out of the 50-ft. buffer zone with stones around it. CM said this is not a rare and unusual situation but it needs a little more thought.

HEARING CONTINUED TO 4/27/23

NOI 23-11: 136 Atlantic Avenue – Landscaping Project (con't from 3/23/23)
In attendance: Ethan Meyers (EM)/Applicant
Documents presented: Site Plan, DEP File Number

The applicant presented a landscaping plan that allows him to regain yard space around the former pool area and minimize the square footage of the project.

MOTION: By Chair Macfarlane to close the public hearing and issue an Order of Conditions for NOI 23-11 to perform landscaping at 136 Atlantic Avenue.
SECOND: Member McIntyre
ROLL CALL VOTE: T. Bell – Aye; K. Berigan – Aye; C. McIntyre – Aye; C. Macfarlane – Aye; W. Ashton – Aye
MOTION PASSES: 5-0-0 Unanimous

NOI 23-07: Sandy Beach – Annual Clean-up (con't from 3/2/23)
In attendance: Carmen Hudson (CH)/Merrill Engineering; Annette Sawchuk (AS)/Sandy Beach Association
Documents presented: Beach Maintenance Plan, General Site Plan

CP is determined to revise the beach maintenance plan and create a general site plan for resource areas to accommodate beach plans. She already has the DEP summary and just needs more delineation and site plan updates. CM is concerned about the resource area vs. the buffer zone. CP said she could pull up the site plan but utilized GIS for information. She has worked with AS, DPW Director Brian Joyce, Town Counsel and CH to update with is already existing and to review guidance from CZM to handle the seaweed. DEP said the plan meets the requirements for completeness. CH was told by the DEP to work within the mean high water as long as we don't change contours or elevations. To manage seaweed, CP said to go through the Beach Maintenance Plan (BMP). Instead of mean high water, it was changed to "wrack line" and contains information on how seaweed should be collected with regards to that line. The SBA is responsible for deciding what the accumulation is. CI asked if the seaweed could be taken off the beach for composting as suggested but CH said the cost could be prohibitive. AS said any seaweed removed from the beach should be screened. CI asked if the CZM requires screening to remove the seaweed and CP said we don't want sediments and gravel removed with the seaweed and that efforts to retain

sediment without the proper licenses is not ideal. TB is asking for a more clearly refined plan to work with. CI needs the volume to be addressed or burying the seaweed will lead to rot and pollution. CM asked if CZM uses a wrack line. TB said the only statutory here is mean high and mean low water and we should use the easiest removal possible. CP asked if we need to clarify further regarding mean high water and wracking line as wracking is not always near the mean high water line. TB said if heavy equipment is being used the commission is supposed to have a 3-day notice or we need to codify this. CH said the seaweed from above the mean high or mean low water can provide guidance to delineate if necessary. CI wants serious tracking of the disposal. CH can manage a graphic plan using what is already in place. CP will look into barrier beaches for restrictions on coastal dunes.

HEARING CONTINUED TO 4/27/23

NOI 23-12: **63 Nichols Road – Collapsed Retaining Wall (con't from 3/23/23)**
In attendance: Brendan Sullivan (BS)/Merrill Engineering; Sean Papich (SP)/ Landscape Architect

The wall is finished from the street side up to the end of the existing wall. The sections that collapsed were repaired. There is no filling of the saltmarsh no mitigation is planned. BS said the 30-ft. extension going back to the house could be extended another 15-ft. and abut up to the existing ledge. CM asked if the applicant is amending an earlier application to include the 15-ft. of wall and said that piece of wall was not included in the original plans, the 30-ft. extension is not part of the emergency repair and he is concerned with the status of the eastern slope. SP said he didn't see an erosion blanket. BS said the planting plan doesn't show the extension of the wall but does show other plantings. CP said the area was all moved out of the saltmarsh. Wetland Scientist John Zimmer's original delineation showed flags up to the middle of the wall implying a saltmarsh but it doesn't seem like it's a saltmarsh. BS said by the time it's fixed we can say if it's a saltmarsh or not. CP said we need temporary construction access to fix the wall. BS is going to get a saltmarsh restoration plan and get John Zimmer to review it.

HEARING CONTINUED TO 4/27/23

SWP 22-19: **55 South Main St – Mixed Use Building (con't from 6/30/22)**
In attendance: Greg Morse (GM)/Morse Engineering; Cassie Malatesta (CM)/ Applicant
GM submitted an erosion control plan around the perimeter of the site. The first floor is 3,000 sq. ft. of commercial property while the second and third floor are residential units. The back of the property will have 18 parking spaces consisting of 12 spaces under the building and 6 open spaces.

MOTION: **By Chair Macfarlane to issue Stormwater Permit 22-19 for proposed work at 55 South Main Street with the following conditions:**

- The DEP requires no discharge of untreated stormwater
- Post development rates of runoff can't exceed pre-development rates
- Runoff recharges to groundwater
- Total suspended solids will be removed from wastewater
- Compliance with standards of provided stormwater system
- Provide erosion control barrier with document for trash removal
- Develop an Operations and Maintenance (O&M) Plan
- Require that no elicit discharges are proposed from the site

SECOND: Member Ashton

ROLL CALL VOTE: T. Bell – Aye; K. Berigan – Aye; C. McIntyre – Aye; C. Macfarlane – Aye; W. Ashton – Aye

MOTION PASSES: 5-0-0 Unanimous

Minutes for Approval: 2/2/23, 2/16/23, 3/2/23 (con't to 4/27/23)

Show Cause:

NOI 21-10, SWP 21-18: 147 South Main Street - Schiavo (con't from 3/23/23)

The applicant took down a tree in the 50-ft. buffer zone and has yet to replace it. There has been no mitigation and no restoration done. We are looking for a mitigation plan for the entire 50-ft. buffer zone. Within 48 hours of being notified, the applicant has to move all trucks out of the 50-ft. buffer zone. He then has until Friday, April 14 to start mitigation and restoration plans. It was suggested that Mr. Schiavo either plants a replacement tree on the site or makes a monetary contribution to the tree fund. After much deliberation it was decided to issue an Enforcement Order to include:

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- Mitigation plan for the entire 50-ft. buffer zone.
- Cease and Desist order in effect at noon on Friday, April 14, 2023 if work not done.
- Delineation of property line and 50-ft. buffer zone by noon on Friday, April 14, 2023

MOTION: By Chair Macfarlane to issue an Enforcement Order for NOI 21-10 and SWP 21-18 with conditions as discussed for work being done at 147 South Main Street by John Schiavo.

SECOND: Vice Chair Bell

ROLL CALL VOTE: T. Bell – Aye; K. Berigan – Aye; C. McIntyre – Aye; C. Macfarlane – Aye; W. Ashton – Aye

MOTION PASSES: 5-0-0 Unanimous

Show Cause:

692 Jerusalem Road: (con't from 3/2/23)

Attorney William Edes of Drohan, Tocchio and Morgan said the stone retaining wall being constructed is not increasing the impervious surface. The applicant has now provided a conditioned site plan saying the land total does not exceed 500 sq. ft. and the impervious area has been reduced with the addition. He is tracking down the person who worked on the retaining wall. The original land total was 517 sq. ft. but the owner reduced some of the existing building and put it under 500 sq. ft. The disturbed area was originally under 5,000 sq. ft. but additional work put it over 5,000 sq. ft.

Certificate of Compliance: SWP 16-38: 15 Diab Lane

CP performed a final inspection with the applicant and confirmed work was completed but found a few deviations to the proposed grading and other minor issues with the property. The engineer clarified that the grading and retaining wall changes did not negatively impact drainage of the site. CP clarified the stone retaining wall was on the original landscape plan but wasn't on the site plan.

MOTION: By Chair Macfarlane to issue a Certificate of Compliance for SWP 16-38 at 15 Diab Lane.

SECOND: By Member McIntyre

ROLL CALL VOTE: T. Bell – Aye; K. Berigan – Aye; C. McIntyre – Aye; C. Macfarlane – Aye; W. Ashton – Aye

MOTION PASSES: 5-0-0 Unanimous

Agent Updates:

CP explained the construction at 49 Border Street started a few weeks ago and had a preconstruction visit with the contractor to inspect erosion controls and review the Order of Conditions. Work is ongoing at 87-124 Elm Street and 1 Pleasant Street with some concerns to erosion control which both contractors are working on fixing. She is working with the town grant coordinators on a CZM water grant to update the Stormwater Bylaw to include performance standards of improving water quality and will keep the Commission updated. The remote Open Meeting Law provisions were extended from 3/31/23 to 2025. PC confirmed the Stormwater Bylaw changes are on the Town Meeting Warrant article and will need someone to present them.

- **Construction Updates:** 60 Hobart Lane, 78 Nichols Road, 12 Hobart Lane, 392 South Main Street, 46 Black Rock Road
- **Other Updates:** National Grid Tree Work, OOC Special Conditions Boilerplate; Town Meeting Update
- **SWP 21-27** – 34 Bancroft Rd (con't to 4/27/23)