

**APPROVED MINUTES**  
**COHASSET CONSERVATION COMMISSION MINUTES**  
**MEETING OF MAY 19, 2022**  
**PRESENTED ON A ZOOM PLATFORM**

**IN ATTENDANCE:**

Chris Macfarlane (CM), Chair  
Justin Pimpare (JP), Vice Chair  
Kathy Berigan (KB), Secretary  
Eric Eisenhauer (EE), Member  
Trish Grady (TG), Member (At 6:40 pm)  
Tom Bell (TB), Member  
Will Ashton (WA), Member  
Chris McIntyre (CM), Associate Member

**STAFF IN ATTENDANCE:**

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

**6:30 PM:**

**Opening of Meeting**

**Call to Order**

**Roll Call Attendance:** W. Ashton – Aye; K. Berigan – Aye; E. Eisenhauer - Aye;  
C. Macfarlane – Aye; C. McIntyre - Aye; J. Pimpare-Aye

**Quorum of six (6) voting members** (*Member Grady arrived at 6:45 pm*)

**6:35 PM:**

**RDA 22-10: 16 Beechwood St – Tree Removal and Replacement - Brophy**

**In attendance:** Ann Brophy (AB) /Applicant

**Documents presented:** RDA Application, Documentation of Damage

*Secretary Berigan recused herself from the public hearing.*

AB has been at 16 Beechwood Street since 1997 with several major insurance claims resulting from the trees. They are proposing to remove three (3) trees in front of house that are close enough to cause more damage and become a health and safety issue. CP showed photos of the trees in question. Some trees along the driveway are already dead. JP has no problem with taking dangerous trees down but wants to see the placement of the new trees. He asked AB to do up a simple diagram and get it to CP for approval. CM suggested taking a vote tonight and receiving the diagram by 5/24/22.

**MOTION:**

**By Vice Chair Pimpare to issue a Negative 3 determination for RDA 22-10 for Ann Brophy at 16 Beechwood Street with the following conditions:**

- **The applicant must put together a plan showing the trees to be removed and a mitigation plan acceptable to CP before 5/24/22.**
- **No heavy equipment is to be used.**

**SECOND:**

**Member Eisenhauer**

**ROLL CALL VOTE:**

**W. Ashton – Aye; K. Berigan – Recused; E. Eisenhauer - Abstain; C. Macfarlane – Aye; J. Pimpare-Aye, T. Bell - Abstain**

**MOTION PASSES:**

**3-0-2** (*Members Bell and Eisenhauer abstained*)

**MOTION:**

**By Vice Chair Pimpare to issue a variance for RDA 22-10ss at 16 Beechwood Street for work within the 50-ft. buffer zone.**

**SECOND:**

**Member Ashton**

**ROLL CALL VOTE:**

**W. Ashton – Aye; K. Berigan – Recused; E. Eisenhauer - Abstain; C. Macfarlane – Aye; J. Pimpare-Aye, T. Bell - Abstain**

**MOTION PASSES:**

**3-0-2** (*Members Bell and Eisenhauer abstained*)

**6:55 PM: RDA 22-13: 42 Smith Place – Hazardous Tree Removal**

**In attendance:** Jeff Menard (JM)/ Applicant

**Documents presented:** RDA Application, Signed Site Plans

**The applicant has** a black walnut tree within the 50-ft. buffer zone that has been dropping walnuts on a daily basis. JM said their dog has been to the vets for ingesting walnuts and their one-year-old has been picking up walnuts in the yard. JM would like to take down the tree and replace with an approved species. CM said the hazard is the walnuts themselves and they can be fatal. JM arranged with Total Trees to cut and remove the tree with all work done with a hand-held chain saw. CM asked if the owner would agree to planting two (2) new trees and JM agreed. EE said the black walnut is not toxic but JM said the skin of the walnuts rots and causes issues, including toxicity. JP said according to research the black walnuts should never be eaten by a dog as they are incredibly toxic and could cause vascular disease and KB seconded that statement. JP suggested using smaller trees to replace the black walnut and specified using trees from the species list that are at least 3-in. in caliper and at least 15-ft. in height.

**MOTION:** **By Vice Chair Pimpare to issue a Negative 3 determination for RDA 22-13 for work proposed at 42 Smith Place for Jeff Menard with the following conditions:**

- **The tree is allowed to be cut down and the cuttings remain on the site.**
- **The tree is replaced with two (2) trees of at least 3-in. caliper and 15-ft. height from the native species list.**
- **Two (2) native shrubs to be placed in the 50-ft. buffer on the back side of the fence.**
- **The reason for the tree removal is due to the toxicity of the black walnut tree with regards to site-specific conditions of the applicant.**
- **No heavy equipment can be used in the tree removal.**

**SECOND:** Member Eisenhauer

**ROLL CALL VOTE:** W. Ashton-Aye; T. Bell-Aye; K. Berigan- Aye; E. Eisenhauer- Aye; T. Grady – Aye; J. Pimpare-Aye; C. Macfarlane-Aye

**MOTION PASSES:** 7-0 Unanimous

**7:30 PM: SHOW CAUSE: 42 and 48 Smith Place - Landscaping**

**In attendance:** Jeff Menard (JM) /Applicant

**Documents presented:**

It was reported to CP that landscaping activity was ongoing at 42 and 48 Smith Place and there was a landscaper with a backhoe. CP did not see landscaping actively going on when she was there but she did notice vegetation removal. The activity reported was mowing and week-whacking in an area up to an intermittent stream. 48 Smith Place removed and piled vegetation and will be before the commission on June 2, 2022. JM said brush pile at 42 Smith Place was taken over by the neighbors at the property line and he wanted it pointed out that he never had a backhoe on the property. CP meant to say a mower was present and not a backhoe and asked if any grass had been planted but JM said he is not aware of any. JP said the issue is that JM bought the home in the condition it's in and CM said nothing in the bylaws covers how people take care of their lawns. CM said the only problem is that the wetlands is 12-ft. wide and surrounded by maximized lawns and CP will be getting calls from abutters. JP said the commission should be site-specific and he supports cutting the tree and leaving it stacked on the property.

**RDA 22-12: 35 Whitehead Rd – Stump Removal and Road Repair**

**In attendance:** Celia "Cici" Franklin/Caretaker

**CP** said a large stump near the entrance to 35 Whitehead Road on the border of the existing road fell down during the last storm and a large stump was left there. CF wants to take out the stump and fill in the area. The road will need repair from the hole left by the stump. EE said it's a problem the DPW should be involved in but CF said where it's a private way she was told all the DPW does is plow the road. She feels if the town installed the road it should be maintained by the town. CM asked if pulling the stump will

damage the tree behind it but CF said it's more distant than it appears. CM said to remove and discard the stump. TB asked if it creates a hazard removing the root ball from the other tree but CM doesn't think it will do that. TB suggested taking out the stump and backfilling the area with stone.

- MOTION:** By Chair Macfarlane to close the public hearing on RDA 22-12 and issue a Negative 3 Determination of Applicability for 35 Whitehead Road with the following conditions:
- The stump will be pushed into the buffer area.
  - The road will be repaired.
- SECOND:** Member Eisenahuer
- ROLL CALL VOTE:** W. Ashton-Aye; T. Bell-Aye; K. Berigan- Aye; E. Eisenhauer- Aye; T. Grady – Aye; J. Pimpare-Aye; C. Macfarlane-Aye
- MOTION PASSES:** 7-0 unanimous

**RDA 22-11:** 426 Atlantic Ave – Pool, Generator, Landscaping  
**In attendance:** Amy Wolfson (AW) /Amy Weston Designs; Sandra Bane (SB) /Owner

**Documents presented:** Application and Site Plan, Existing Condition Plan

This project proposes to install a generator, pool and patio; replace two (2) walkways with stepping stones; rebuild the bluestone steps; and relocate a portion of the fence currently on the neighbor's property. Construction vehicles will use the driveway for access but, other than travel, there will be nothing in the 50-ft. buffer zone. There is a Bordering Vegetated Wetland (BVW) on the property. Native plantings will be used in the 50-ft. to 100-ft. buffer zone. A row of trees along the border of the property will be used as a privacy screen. EE asked about a coastal bank but AW said the survey does not include delineation of a coastal bank because there is no encroachment. EE asked why there was no diagram with the coastal bank and buffer zone. SB said they are not planning to do any work within the coastal bank but AW said it is within conservation jurisdiction. CM is concerned with the proximity of the coastal bank to the property and asked that it should be shown on the plan. AW said the area has been planted for a while but they will get it on the plan. TB said the line is fairly clear for the top of the coastal bank, it doesn't alter what is going on at the site, but the species may have to be changed.

- MOTION:** By Chair Macfarlane to close the public hearing for RDA 22-11 and issue a Negative 3 determination of applicability for 426 Atlantic Avenue with the condition that anything within 50-ft. of the Bordering Vegetated Wetland (BVW) or within 50-ft. of the top of the coastal bank will be plants taken from the Conservation Commission list of approved species.
- SECOND:** Member Eisenahuer
- ROLL CALL VOTE:** W. Ashton-Aye; T. Bell-Aye; K. Berigan- Aye; E. Eisenhauer- Aye; T. Grady – Aye; J. Pimpare-Aye; C. Macfarlane-Aye
- MOTION PASSES:** 7-0 Unanimous

- MOTION:** By Chair Macfarlane to issue a variance for planting within the 50-ft. buffer zone for RDA 22-11 at 426 Atlantic Avenue with the condition that no heavy equipment be used.
- SECOND:** Member Eisenahuer
- ROLL CALL VOTE:** W. Ashton-Aye; T. Bell-Aye; K. Berigan- Aye; E. Eisenhauer- Aye; T. Grady – Aye; J. Pimpare-Aye; C. Macfarlane-Aye
- MOTION PASSES:** 7-0 unanimous

**SHOW CAUSE: 322 Forest Ave – Tree Removal**

**In attendance:** Joe Parks/Owner

**Documents presented:** Tree Photos

CP noted storm damage within an Isolated Vegetated Wetland (IVW) and cutting of trees that was done without a permit. A 'Cease and Desist' was issued for the property and work on the site was stopped. JP asked that the site be left as is with no further cutting or removal and, moving forward, to leave the site as is. There should also be no cutting done near the road.

**SHOW CAUSE: 559 Jerusalem Rd – Right-of-Way Tree Removal**

**In attendance:** Sean (?) Murray (town);

**Documents presented:** Tree Photos

CP said Conservation should've been notified and a hearing should've taken place before the tree was taken out but the owners were under the impression that they were all set. The tree is within 100-ft to a coastal bank and possibly to a vegetated wetland. CM asked who removed tree and CP said the owners hired Maltby to do the removal.

**ANRAD 22-19: 80 North Main St - Delineate Bordering Vegetated Wetland (BVW)**

**In attendance:** Brendan Sullivan (BS) and Carmen Hudson (CH)/Cavanaro Consulting

**Documents presented:** ANRAD Application, Site Plans

Discussion about coastal banks and elevations led to the statement that a flood zone dictates the coastal bank elevations. BS said the current site is either going to be redeveloped or taken down and rebuilt. JP said the site drops off after the 23 contour to about 30 contour. BS said the contours are steep at the top and gradually get lower as they get further apart until they are less than a 10 to 1 slope. CM asked if the break between elevation 12 is considered part of the 100-year storm event. BS agreed with this statement and said that the velocity zone coincides with the graph as well. CM asked if the top of the coastal bank is the first break in the 100-year storm event when the break and year coincide. BS said when the slope is between 4 and 10 to 1, the bank coincides with the flood plain. If it was 1 to 1, the coastal bank comes up to the back of the house but the slope is elevation 12. CP commented about the detrimental effect of fertilizer and herbicides as it abuts Little Harbor and asked if BS could comment on the current use of these chemicals as lawn maintenance. BS said he has no idea about lawn maintenance but can tell the commission and applicant what not to use. CP said the rules and regulations do not allow Round Up in a buffer zone. EE said fertilizer of less than 5% nitrogen is acceptable but hard to find; however, he would be fine with using it. JP reminded the commission that this is an ANRAD only and we are looking for a determination on delineation. If this hearing comes in front of us as an NOI we will deal with it then. CM said that all we are doing is reviewing an application to accept or deny and we would have three (3) choices: accurate, with modifications or inaccurate.

**MOTION: By Vice Chair Pimpare to close the public hearing and accept the ANRAD of 4/17/22 as accurate.**

**SECOND: Member Eisenhauer**

**ROLL CALL VOTE: W. Ashton-Aye; T. Bell-Aye; K. Berigan- Aye; E. Eisenhauer- Aye; T. Grady – Aye; J. Pimpare-Aye; C. Macfarlane-Aye**

**MOTION PASSES: 7-0 unanimous**

**NOI 22-20: 249 Jerusalem Rd – Addition and Garage Reconstruction**

**In attendance:** Brad Holmes(BH) /ECR; Eric Richter (ER) /applicant

**Documents presented:** NOI Application, Site Plan

The proposed project at 249 Jerusalem Road is for garage reconstruction with a second-floor addition. There is a Bordering Vegetated Wetland (BVW) to the east of the property and a flood zone of Elevation

10 within the coastal bank. The garage footprint is smaller than it was previously. The addition would overhang the existing driveway with a cobbled apron. The exterior stairs will be reconstructed. The structure within the buffer zone will stay within the existing footprint. 240 sq. ft. of new project area is impervious but under the 500 sq. ft. limit. The owner was asked to follow any conditions set by the commission and to restabilize the area of work. WA asked if the new deck in the back of the house is part of the project and BH confirmed that it was. ER stated the old deck is being replaced in kind. WA asked if there would be new footings and ER said most likely there would be but there is no expansion of the deck. JP asked if the garage would be on a slab and ER said there will be a small slate addition to the foundation but the rest of the garage would be on a slab. A silt sock and a silt fence will be added for erosion control.

**MOTION:** By Vice Chair Pimpare to close the public hearing for NOI 22-20 for work proposed at 249 Jerusalem Road with the following conditions:

- A revised site plan must be submitted and acceptable to the Conservation Agent by 5/25/22.
- The narrative language to reflect the new deck will be in the plan.
- In addition to the silt sock, a silt fence will be in place to capture additional sediments.
- No heavy equipment may be used in the 50-ft. buffer zone.

**SECOND:** Member Ashton  
**ROLL CALL VOTE:** W. Ashton-Aye; T. Bell-Aye; K. Berigan- Aye; E. Eisenhower- Aye; T. Grady – Aye; J. Pimpare-Aye; C. Macfarlane-Aye  
**MOTION PASSES:** 7-0 unanimous

**MOTION:** By Chair Macfarlane to issue a variance for planting within the 50-ft. buffer zone on NOI 22-20 at 249 Jerusalem Road with the condition that no heavy equipment be used.

**SECOND:** Member Ashton  
**ROLL CALL VOTE:** W. Ashton-Aye; T. Bell-Aye; K. Berigan- Aye; E. Eisenhower- Aye; T. Grady – Aye; J. Pimpare-Aye; C. Macfarlane-Aye  
**MOTION PASSES:** 7-0 unanimous

**NOI 22-13, SWP 22-10: 44 Little Harbor Rd – Addition and Pool (con't from 5/5/22)**  
**In attendance:** Deb Keller (DK)/Merrill Engineering; Jed Hannon (JH)/Atlantic Coastal; Sean Papich (SP)/Landscape Architect  
**Documents presented:** Peer Review, Site Plans

*Vice Chair Pimpare recused himself from the public hearing.*

**PEER REVIEW:**

DK performed two (2) test pits at the site. Test Pit #1 went down 77-inches and was very viable. The pit had no modeling of groundwater weeping when excavated, a transition from lawn area soil to a parent layer and was stockpiled with cobblestones but still featured loamy sand. Test Pit #2 to the left of the driveway with 36-inches of fill had to grade more when constructed. Loamy sand is visible on top then gravel and a bottom buried A layer that transitioned to a second B layer. The test pit went down 92-inches with less gravel than Test Pit #1 and showed no weeping, modeling or observed groundwater in the hole. TB asked if these holes dug were the first set of test pits and DK said #1 was original and #2 was on the edge of the original. TB said that in between #1 and #2 there was quite a change in soil moisture. DK said she agreed but thought it was raining at some point. She was amazed that they went down 92-inches with no weeping. The assumption is that if it rained the day before the groundwater was slowly infiltrating down and getting the flow but they are still above the buried A layer. The orange layer below is the B layer where you have bleeding of organics into the C layer. She looked for modeling and restrictions but found none. She also looked for staining or oxidation but found none. TB said if there's no modeling then how do you know if you don't see any evidence? DK said soil testing would show weeping and if they don't see groundwater then they can assume it's at the bottom of the hole. She said it's loamy sand with good drainage and perc's quickly. CP presented a letter of support from the owners of 25 Little Harbor.

**MOTION:** By Chair Macfarlane to close the public hearing for NOI 22-13 and issue an Order of Conditions with no special conditions for proposed work at 44 Little Harbor Road.

**SECOND:** Member Ashton

**ROLL CALL VOTE:** W. Ashton-Aye; T. Bell-Aye; K. Berigan- Aye; E. Eisenhower- Aye; T. Grady – Aye; C. Macfarlane-Aye

**MOTION PASSES:** 6-0-0

**MOTION:** By Chair Macfarlane to issue a variance for work within the 50-ft. buffer zone at 44 Little Harbor Road.

**SECOND:** Member Ashton

**ROLL CALL VOTE:** W. Ashton-Aye; T. Bell-Aye; K. Berigan- Aye; E. Eisenhower- Aye; T. Grady – Aye; C. Macfarlane-Aye

**MOTION PASSES:** 6-0-0

**MOTION:** By Chair Macfarlane to issue Stormwater Permit 22-10 with no conditions for proposed work at 44 Little Harbor Road.

**SECOND:** Member Ashton

**ROLL CALL VOTE:** W. Ashton-Aye; T. Bell-Aye; K. Berigan- Aye; E. Eisenhower- Aye; T. Grady – Aye; C. Macfarlane-Aye

**MOTION PASSES:** 6-0-0

**REPORT FROM THE CONSERVATION AGENT:**

- **Treats Pond Emergency Certification and Construction Updates:** This project was not approved by the MA DEP. Cohasset Conservation issued an Emergency Certification on 5/5/22, the DEP had seven (7) days to approve or deny but the application was stamped by DEP on 5/19/22. CP said that an emergency certification allows work to start right away and where it wasn't dealt with until after the time had expired the project manager assumed it had passed. Sandy Beach has piping stockpiled in their parking lot. JP said to contact Brendan Mullaney of the MA DEP and get things cleared up.
- **Sohier Street Construction Update:** CP must be notified of any erosion concerns. She also said the site has been staked and the work shouldn't go past the orange stakes and erosion controls.
- **Sandy Beach Update:** The parking lot is owned by the town of Cohasset but the beach is privately owned. In 2020 the Order of Conditions (OOC) for maintenance expired and the Sandy Beach Association received notification of renewal but to date the commission has not received a new application for beach maintenance. JP said the situation is a complete disgrace that the commission has been dealing with for three (3) years and there is still no current OOC for any work to be done on Sandy Beach although work has been done in that time. The commission feels that unless the association gets a permit they should be not allowed to open.
- **Submission Guidance and Checklist:** An early draft will be given to the commission. The information was directly taken from our Rules and Regulations. If the bylaw is not submitted correctly it could jeopardize the project as everything needs to be submitted within 21 days and you can't choose to extend if the application is incomplete. TG suggested doing this at a hearing where we can go through the list and show deficiencies, then continue the project to another hearing for approval. JP said a reason for denial is missing information and we want to avoid that going forward.

**With no further business to discuss, a motion to adjourn was made by Member Eisenhower, seconded by Member Ashton and approved by a vote of 6-0-1 with Vice Chair Pimpare recused.**

**Meeting adjourned at 10:15 PM.**