



APPROVED MINUTES
COHASSET CONSERVATION COMMISSION
MEETING MINUTES

DATE: JUNE 2, 2022 TIME: 6:30 PM

IN ATTENDANCE:

Chris Macfarlane (CM), Chair
Kathy Berigan (KB), Secretary (*in at 7 pm*)
Eric Eisenhauer (EE), Member (*leaving at 7 pm*)
Tom Bell (TB), Member
Will Ashton (WA), Member
Trish Grady (TG), Member

STAFF IN ATTENDANCE:

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

ASSOCIATE IN ATTENDANCE:

Chris McIntyre (CI)

6:35

CALL TO ORDER

ROLL CALL ATTENDANCE: E. Eisenhauer – Aye; T. Bell – Aye; W. Ashton – Aye; C. Macfarlane – Aye
(4 voting members present)
T. Grady – (in at 6:46 pm) K. Berigan – (in at 7 pm)

Three (3) Hearings Opened and Continued:

- **NOI 22-12, SWP 22-08: 221 Hull Street (Con't to 6/16/22)**
- **SWP 22-13: Scituate Hill (Con't to 6/30/22)**
- **NOI 22-11: 46 Border Street (Con't to 6/16/22)**

RDA 22-14 25 Sheldon Road – Landscaping

In attendance: Matthew Bilbo (MB)/Landscape

Documents Presented: Site Plan

MB said sea water coming up and over the sea wall destroyed the garden. It will be replaced with native species. The site plan shows plantings and positioning. The work is part of an NOI from 2013 with an Order of Conditions that expired in 2018. MB is trying to upgrade the landscaping plan and correct errors made from before. Three (3) trees that did not survive were previously planted and they are being replaced with native plantings. Soil against the sea wall is sandy loam and turf grass on the lawn is fine, it is just the vegetation between 4-ft. and 15-ft. that's getting washed out. EE suggested putting in lower shrubs as opposed to trees and MB was amenable to that. CM agreed to not require the applicant to plant three (3) larger trees and to put it in the minutes.

MOTION:

By CM to issue a Negative 3 Determination of Applicability for work proposed at 25 Sheldon Road with the condition that three (3) pear

trees originally shown on the planting plan will not be considered part of the new plantings.

SECOND:

Member Ashton

ROLL CALL VOTE: E. Eisenhauer – Aye; W. Ashton – Aye; T. Bell – Aye; T. Grady – Aye;
C. Macfarlane - Aye

MOTION PASSES: 5-0-0 Unanimous

Show Cause Hearing: 22 Parker Avenue – Shed Built in Buffer Zone

In attendance: Jay Graham (JG)/Owner

Documents Presented: Site Plans, Delineation from Cavanaro Consulting

CP received a report from an abutter regarding a shed being built without a permit. She issued a Cease & Desist order and had a site visit with rough delineation outside the 50-ft. buffer zone. JG said that based on the size of the shed he didn't realize he needed permission. CP said they are calling this a saltmarsh bank. JG said he couldn't get the area flagged in time for the meeting. CM noted a FEMA AE Zone at Elevation 10 and also a limited saltmarsh bank. TB said it looks like the work is outside the AE Zone. CM asked if the commission accepts what is labeled as a saltmarsh bank and if the shed is between the 50-ft. and 100-ft. buffer zone. TB said a coastal bank 8-ft. west of the property fence could put the shed within the 50-ft. buffer zone and, if so, they would need a new evaluation of the wetland. CP said there is space between the phragmites and the water with a little bank before it jumps to the lawn. At a site visit she did a measurement where the elevation started to change and also where the vegetation and the bank changed. CM asked what the impact is of the shed on the resource area as it appears to be a small impervious area. He said we can choose to allow the area to remain as is and caution the homeowner, we can relocate the shed outside the 50-ft. buffer zone or we can collectively come to an agreement. The commission decided to caution the owner and warn him to be careful with any future development.

Show Cause Hearing: 100 Whitehead Rd – Beach Maintenance

In attendance: Scott Brandt (SB)/Property Manager for Owner

Documents presented: (None)

CP notified the abutter in April of activity going on with beach cleaning. A cleaning tractor was making its way around the beach. She performed a site visit on May 23, 2022. SB said the area between the guest house and the main house could be a sandy beach. Behind the tractor there is a great deal of beachhead gone due to storms and he would like to clean the beach. He did not know of a maintenance plan but offered to have one made up. CM said to do this work he will need a permit and approval from both the town and DEP depending on the level of activity. CP spoke with DEP and found that work is normally required through the filing of a Notice of Intent. SB felt it was odd that the beach area was being impacted but CI said they are altering a resource area which is different from a coastal bank. CM said depending on the type of deed, property ownership ends at mean low water.

CM recommended SB to file a Notice of Intent.

Show Cause Hearing: 44 Smith Place (con't from 5/19/22)

In attendance: Elizabeth (EK) and Will Kirkpatrick/Owners

Documents presented: Photos of Property

EK has a small yard with an interim stream that runs through the yard and maintains it. The wetland area is overgrown with knotweed that she is mowing as a means of maintaining and

controlling it. Last year a 'Cease and Desist' order was issued for a brush pile in the buffer zone which was cleared. CM asked who put the channel in the middle of the yard and EK said it was the Town of Cohasset and the channel was man-made. CM said this channel is not the same as the one in the knotweed as it's a natural intermittent stream in the knotweed and a man-made channel in the middle of the yard. EK asked if there's work outside the 50-ft. buffer zone but inside the 100-ft. buffer zone can they clean out stalks in the spring. CM told them to work with CP and to apply for an RDA.

CM recommended EK to file a Request for Determination of Applicability.

SWP 22-15: COHASSET GOLF COURSE - RAZE AND REBUILD MAINTENANCE SHEDS

In attendance: Jeff Hassett (JH)/Morse Engineering; Charlie Flint and Glen Misiak/Cohasset Golf Course

Documents presented: SWP Application, Site Plans, Drainage Report

The applicant wants to raze four (4) maintenance buildings and build three (3) new maintenance buildings in their place. JH said the limit of work has a 12-inch mulch sock and siltation fence to delineate the wetlands. All catch basins have silt socks. The driveway will be extended to the new facility for equipment storage only and floor drains will capture oil and other fluids in a tight tank. The smaller building will store fertilizer. A larger building will have a wash basin, above-ground fuel tank for safe refills and drainage to the holding tank. Runoff will be captured in catch basins in the parking lot and roof runoff pipes will direct runoff into manholes. CM asked about the drainage patterns and reductions and what is the effect on an Isolated Vegetated Wetland (IVW). JH said there is no increase to the rates of volume and runoff drainage patterns and reductions. There is a 14% reduction to the IVW which won't dry it out. WA said what is down lower now is gas for vehicles and equipment and JH said the pump will be removed and parking will remain reconfigured. TB is concerned that the IVW wasn't prioritized but is a closed topographic progression that holds water, it's adjacent to woodlands on two (2) side with a habitat and breeding site and watersheds at Rattlesnake Run and Turkey Hill could cause possible nitrate invasion to Straits Pond. He would like to see a watershed analysis for removing surface water and said the area of the building is heavily forested and the applicants are clearcutting a significant area that needs to be considered for mitigation. JH said the IVW is not mapped as a vernal pool and they are using delineation used by the commission when they approved the tennis courts. All roof runoff goes to an infiltration basin approved by DEP for nitrogen removal and there will be no additional septic system. JH prefers fill to ledge removal. TB asked how JH will deal with accumulating liquid in the holding tanks and JH said the tanks will be pumped and waste will be disposed of in accordance with regulations. CM asked about a tree removal plan and JH said any trees within the limit of work will be removed. JH said they have staked out corners but not the infiltration basin. CI said the total of disturbed area is greater than an acre and the applicants will need a permit for it. JH said the intent of the project is to get all the equipment under cover.

PUBLIC HEARING CONTINUED TO 6/30/22

NOI 21-07 99 Border St – Amended Order of Conditions and Show Cause Hearing

In attendance: Jeff Hassett (JH)/Morse Engineering; PJ Antonik (PJ) and Tom O'Brien (TO)/Builders; George McGoldrick (GM)/Abutter

Documents presented: Site Photos, s

CP had reports in March about stairs leading to the dock in a resource area and she recommended an Amended Notice of Intent (NOI) with a 'Show Cause' hearing to discuss changes and leave it to the commission's decision on a Certificate of Compliance. JH said the work done has been substantially completed with two (2) deviations: the steps that are

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permitted to take more than a 90-degree turn are now further away from resource area; there is no longer a need for a walkway to the pier because the dock portion is no longer proposed and is not part of the project. CM said the deck was now lower, they added stairs to the patio, the patio itself was smaller on the plans than what's been built and the walkways are included. There was also no outdoor shower on the plan but there is one on site. The first approval showed less patio and less deck. A gravel driveway has been paved. An intermediate plan had an arborist removing a damaged tree in the yard. JH said in 2017 there was a gravel driveway that was intended to be paved but at the time the bigger project was a home revision. The driveway was eventually paved. CM stated that the patio is not pervious and that water will run off the site and not infiltrate. TO said that the patio is definitely pervious but maybe not as pervious as the commission would like. CM clarified that the commission is not here to say what they desire but to see what the project requires with permits and is in compliance with the application as given. Whether or not the patio is pervious and the driveway is of a particular material is called into the equation because plan have been submitted to the commission. It is up to the engineer to determine the permeability of the patio.

The site differs from the plan presented to the commission. The applicant went from a small deck to a much larger deck that is taller than presented. JH said the patio is 70-sq.ft. larger and would not trigger a stormwater permit. The deck is a little higher than originally intended due to two (2) additional steps at the bottom to compensate and they don't make a significant impact to the resource area. TB said they should've let the agent know when changes are made but PJ said though they were doing what was right by the plan and was under the assumption that a section of the deck was cantilevered so he did not see the footings underneath the steps. He felt there was actually less damage to the resource area and didn't think it would be opposed. He reduced the impact by having the stairs go straight down. CM said that regardless of the outcome PJ should've come back to the commission with any changes. TB asked if the owner needs a stormwater permit as the cantilevered deck is different than what was approved. CM said only if the deck impacts the resource area and if the commission is willing to accept changes not originally presented. JH said that the driveway in front is correctly paved "to direct all roof downspouts to the yard" with no roof drywell. Runoff from the patio will be collected in raised mulch along the patio. TG asked to redo the numbers for the patio with stormwater runoff but JH said 70-sq.ft. would not trigger a stormwater permit and it runs off to a tidal resource area with would compensate for storage. CP said the overall net increase of impervious surface is not 500-sq.ft. or more.

CM asked if the introduction of human activity would be detrimental to the buffer zone and resource area and JH said there have always been steps down to the landing and to the grass. CM said the approved permit went from the upper deck to the dock. TG asked if we have to first amend the NOI before issuing a Certificate of Compliance. CP said we can issue the C of C separate from the amended order, issue both together or issue just one and not the other. CM promoted George McGoldrick to address the commission. GM presented himself as an abutter and as treasurer of the Gulf Association and said he is not against the neighbors getting access to the waterfront, but a cantilevered deck is a serious change to what was presented and approved. TB said is it not within our jurisdiction to make judgement about the deck but GM said it is a structure within the resource area and, in his opinion, the commission does have jurisdiction to remove the deck and go back to what was approved. CM said the area is more a landing than an observation deck and, while the deck should've been lower than presented, we should allow for stairs to go to the existing pier. CP said our legal counsel weighed in on this and said the site plan is how we evaluate our decisions and architectural plans are not required as part of the submission. TB said it may not be a big deal to finish the stairs as approved, but JH said the problem would be that you'd need two (2) additional steps which would extend the steps into the resource area near the pier. PJ said while it's feasible to lower the landing you

would have to put pilings down into the land and it's a big project for a correction. They would have to go further out into the resource area to clear the wall.

CP said our options are to issue a C of C with or without the current as-built conditions; issue a C of C with no monitoring; approve just the C of C; deny the C of C and issue and amended Order of Conditions (OOC) with additional condition if needed; or not approve anything. CM decided to issue the amended NOI, OOC and C of C but stated that what was done is very different than what was presented.

MOTION: By Chair Macfarlane to close the public hearing for 99 Corder Street and issue and Amended Order of Conditions in response to the amended NOI 21-07 with the amendment to read:

- 1) The plan be updated to show the current driveway;
- 2) The lower level at the base of the new stairs be planted with a continuous plant mix that includes at least one (1) additional tree of a 3-inch caliper and 20 woody shrubs;
- 3) The entire area be covered with conservation seed mix also appropriate for that area;
- 4) Those plantings will be maintained by the owner to keep as a green peninsula above the high water ledge;
- 5) The owner must define and maintain a 32-in. wide path at the bottom of stairs through the dock.

SECOND: Member Bell

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

MOTION PASSES: 5-0-0 Unanimous

MOTION: By Chair Macfarlane to issue a Certificate of Compliance for NOI 21-07 for 99 Border Street and its Amended Order of Conditions to go into effect no later than Monday, June 6, 2022 assuming all work is done, with ongoing conditions from the Amended Order of Conditions and to put in one (1) tree of a 3-inch caliper, 20 woody shrubs and a conservation seed mix to be approved no later than Monday, June 6, 2022.

SECOND: Member Bell

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

MOTION PASSES: 5-0-0 Unanimous

NOI 21-26 12 HOBART LANE - (con't from 4/21/22)

In attendance: Joe Maraia (JM)/Applicant; Gary James (GJ)/James Consulting; Paul Shea (PS)/Environmental Consultant; John Zimmer (JZ)/South River Environmental

Documents presented: Delineation Report, Revised Site Plan

JZ did delineation on April 13, 2022 with written permission from Rob and Lynn Schwandt. He reported that the DEP mapped the wetlands resource area which extends across 147 Atlantic Avenue. In 2001 a retaining wall was added to 12 Hobart Lane with an area of standing water and soils not mapped as hydric. In 2010 the whole area up to the retaining wall was vegetated.

In 2013-2014 the area has been disturbed with evidence of landscape fabric and organic soil but without a filing through Conservation. In 2021 there was an established lawn area between the retaining wall and the demarcation wall, and the shed had been removed. The area where the disturbance occurred in 2013 had standing water and mucky soils in the area. The soil meets hydric criteria and the materials brought in were upwards of eight (8) years ago. The vegetation is mixed and if it wasn't mowed it would come back with wetlands plants. The hydrology was met by groundwater and water based on the ledge. The wetlands boundaries were delineated with flags. JZ reached out the DEP and talked about disturbed conditions. The statute of limitations for delineations is three (3) years but 12 Hobart Lane has no approved delineation line.

PS said in the backyard area there is a lot of loam materials, old landscaping, tire marks and other evidence of past work. He researched and found a landscape designer who worked for two (2) prior owners of the property at 12 Hobart Lane. In 2012 they brought in 30 cu. yds. of loam to a low-lying area of exposed ledge. At that time it was filled in, grass seed was spread and loam materials were brought in but the area was not natural and developed over time. PS saw JZ's flags on the property and feels a flag currently on the stone wall is most important as it is going towards the other property line. Tonight's project for discussion is the driveway expansion as the yard work was taken off the plan. PS is not in agreement with the federal delineation line but is dealing with the DEP and Cohasset. Most of the work is within the 50-ft. to 100-ft. buffer zone. The wall will be put 40-ft. away from the wetlands.

CM asked if the flag being considered is on the wall. PS said these are pin flags and JZ said there are pin flags in the soil closer to the working area than the last flag on the wall. TB asked if the boundary between wetlands and uplands are the same elevation and GJ said typically they would be the same. JZ said none of the area photos shown have any exposed ledge and if the area had been wet then fill would've been brought in. GJ suggested to continue the hearing to the next meeting on 6/16/22 because at this time there is no activity on the site. CM said we need final drawings to know what's we are approving. CM & GJ determined that the retaining wall is large boulders that are not grouted. JZ is not concerned with emergent wetlands and feels the project can be done while still protecting the wetlands.

PUBLIC HEARING CONTINUED TO 6/16/22

REPORT OF CONSERVATION AGENT:

Notice of Intent for 115 Border Street from 1988 for a garage and addition has no specifics due to the age of the project. The Order of Conditions was recorded at the Registry of Deeds and the area is well maintained.

MOTION: By Chair Macfarlane to issue a Certificate of Compliance for work completed at 115 Border Street.

SECOND: By Member Ashton

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

MOTION PASSES: 5-0-0 Unanimous

Notice of Intent 15-03 for work at 90 Howard Gleason Road expired and was closed out. A new NOI was filed in 2020 but there was a partial Certificate of Compliance for the invalid Order of Conditions from 2015.

MOTION: By Chair Macfarlane to issue a partial Certificate of Compliance for work at 90 Howard Gleason Road with an updated Order of Conditions to supercede the original order.

SECOND: By Member Ashton

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

MOTION PASSES: 5-0-0 Unanimous

Notice of Intent 14-07 for a dock, ramp and pier at 31 Otis Avenue had no original plan found but it does have a Chapter 91 plan to be used towards the final inspection. The ramp is 10-ft. longer than anticipated, the pier is 115-ft. as opposed to 131-ft. and there is a shortened length of dock. CM wants to bring them in to discuss this matter further.

MOTION: By Chair Macfarlane to deny the request for a Certificate of Compliance and issue a Show Cause Hearing for the owners of 31 Otis Avenue.

SECOND: Member Bell

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

MOTION PASSES: 5-0-0 Unanimous

With no further business to discuss, a motion to adjourn was made by Chair Macfarlane, seconded by Member Grady and approved 5-0-0 unanimous.

Meeting adjourned at 11:35 pm.