



## CONSERVATION COMMISSION MEETING MINUTES – February 27, 2017

**Present:** Scott McIsaac- Chair, Bob Mosher, Laurie Freeman, Adrienne DuBois, Paul Hall, John Morrissey, Loni Fournier-Conservation Officer

**Absent:** Bob Hidell

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

### Approval of Minutes

**Motion:** Commissioner Mosher motioned to approve the minutes from the February 6, 2017 Commission meeting.

**Second:** Commissioner Freeman           **In Favor:** All           **Opposed:** None

### Certificate of Compliance

**90 Ward Street** – DEP 034-0633 and DEP 034-1126

Applicant: Al Duchaney

**DEP 034-0633** An Order of Conditions was issued in May 2001 for expanding the church's parking area. The applicant never started work on the project and has requested to close out the file. Staff visited the site on 2/15/17. There is no evidence that work took place on the site.

**DEP 034-1126** An Order of Conditions was issued in March 2013 for demolishing and reconstructing the church. The applicant never started work on the project and has requested to close out the file. Staff visited the site on 2/15/17. There is no evidence that work took place on the site.

**Motion:** Commissioner Morrissey motioned to issue a Certificates of Compliance for 90 Ward Street, both DEP 034-0633 and DEP 034-1126.

**Second:** Commissioner Mosher           **In Favor:** All           **Opposed:** None

**38 Highview Drive** – DEP 034-1044

Applicant: Brian Tomasello

An Order of Conditions was issued in August 2010 for reconstructing a single family house with a garage, deck, pool, driveway, and associated grading and utilities. Staff visited the site on 2/15/17. The footprint of the house and garage adhere to the final approved plans. The footprint of the pool area differs from what was approved. A wooden deck with a triangular-shaped pool were approved by the Commission. A larger stone patio with a fire pit and a rectangular-shaped pool were constructed. The applicant indicates that these changes were approved by the former Conservation Officer, however there is no information in the project file to support these changes. The larger patio and rectangular-shaped pool encroach further into the 50 foot buffer zone of the coastal bank and the coastal bank itself, which was previously and is currently maintained as lawn. It is up to the Commission to determine if these changes warrant additional mitigation, or if it is comfortable issuing a Certificate of Compliance.

Brian Tomasello (Applicant) and Sean Papich (Landscape Architect) were present to discuss the changes in the plans. Mr. Papich explained that the original plan created by McKenzie Group in July 2010, in reference to the patio/pool space, was more of a 'placeholder' for that space as the designs for the patio were not finalized. Mr. Papich was engaged with

the project after this plan was submitted. He stated that Mr. Tomasello believed that his builder had conversations with the Conservation Officer, Cliff Prentiss, as design changes came through.

Mr. Papich explained that within the 50 ft. buffer zone, there was an additional 419 sq. ft. of impervious coverage. They came before the Commission to find out what they could do to mitigate for that increase. He pointed out that there were landscape beds, covering approximately 412 sq. ft., planted with non-native ornamental species, existing that were not on the original plan. Mr. Papich suggested that they could increase the size of the existing garden beds by 419 sq. ft. and plant them with native species.

Commissioner Morrissey asked the Conservation Officer what she recommended for mitigation. She replied that typically they are looking for 2:1 mitigation in non-saltmarsh areas. He further asked if she agreed with the estimate of 419 sq. ft. of additional impervious surfaces; the submitted Conservation As-Built Plan (Feb. 14, 2017) does not have the 50 ft. buffer zone indicated. The Conservation Officer stated that she could not tell from the submitted plan what the additional impervious area was and that it was helpful that Mr. Papich had included the 50 ft. buffer on his plan to present to the Commission.

Mr. Tomasello expressed his desire to close out the Order of Conditions and if it was required that he plant new native plantings (doubling the landscape beds he currently has) then he was be willing to do that. Discussion followed regarding where the mitigation plantings might be placed. Mr. Tomasello asked if plantings where his property meets the beach to help prevent erosion would be considered mitigation. Survivability of a planting like that would be the only uncertain factor. Commissioner DuBois asked if a planting plan would be necessary. The C.O. suggested that she would be comfortable working with the applicants through the office regarding planting lists and plans. A date was settled on in order to give the applicant time to work with the C.O., create a plan and get the landscaping installed.

**Motion:** Commissioner Freeman motioned to continue the hearing for 38 Highview Drive, DEP 034-1044 to July 17, 2017.

**Second:** Commissioner DuBois                      **In Favor:** All                      **Opposed:** None

**Request for Determination of Applicability**

**36 Canterbury Street**

Applicant: David Westervelt

Proposed: Installation of fencing & tree removal

Applicant David Westervelt was not present. The Commission moved on to the following agenda item and at the end of the last Notice of Intent hearing, decided to continue.

**Motion:** Commissioner Morrissey motioned to continue the hearing for 36 Canterbury Street to March 13, 2017.

**Second:** Commissioner Mosher                      **In Favor:** All                      **Opposed:** None

**Abbreviated Notice of Resource Area Delineation**

**29 Canterbury Street** – DEP 034-1283

Applicant: Canterbury Street, LLC

Representative: Paul Shea

The applicant submitted their ANRAD application in January 2017 and requested a waiver from the Bylaw fee. The total delineation for the project is 3,114 linear feet, which would have amounted to a \$9,342.00 Bylaw fee (\$3.00 per foot). The applicant submitted a check for \$1,000.00 and requests that the Commission waive the remaining portion of the Bylaw fee. It is the applicant's opinion, after consulting with two separate firms, that the cost to review the delineation would fall between \$750.00 and \$1,000.00. Since the applicant filed their application, the Commission adopted a new fee schedule that caps the boundary delineation fee for projects other than single family homes at \$2,000.00.

The boundary delineation for 29 Canterbury Street was conducted by Nover-Armstrong Associates in July 2015. The site contains a 4.5 acre pond with a small dam located off Weir Street. There is a small brook leading from the dam through a culvert that runs under Weir Street. The pond is surrounded by thick vegetation. An existing single family house, barn and pool are located north of the pond. There is a fairly steep slope leading from the house to the pond. Staff reviewed the delineation on 2/8/17. Some flags appeared to be missing, but staff otherwise agrees with the delineation. Based on the amount of time that it took the Assistant Conservation Officer to review the boundary delineation, staff recommends the Hingham Conservation Commission waive the remaining portion of the Bylaw fee.

Paul Shea (Independent Environmental Consultants, Inc) and John Woodin (Canterbury Street, LLC) were present to discuss the Resource Area Delineation. Mr. Shea explained that the main wetland is Patterson Pond and that there are two other wetland resource areas involved; the Bordering Vegetated Wetland and Inland Bank. He stated that he believes that the Nover-Armstrong wetland delineation was a conservative one.

Discussion commenced about the Bylaw fee and what it would have originally cost the applicant had the Commission not recently reviewed and changed the fee schedule. Several commissioners asked why the applicant would not be asked to pay the cap of \$2000. Commissioner Morrissey put forward that the cap is a maximum of \$2000, but that the Commission had discretion to set a lower amount; in this case, the staff's physical review of the delineation had not required great effort or substantial time and, therefore, it was within the Commission's discretion to waive a portion of the fee.

**Motion:** Commissioner Morrissey motioned to waive the remaining portion of the Bylaw fee, a total of \$8,342.00, issue an Order of Resource Area Delineation for 29 Canterbury Street, and adopt the findings of fact a and b of the staff report.

Findings:

- a. This project meets the requirements for issuance of an Order of Resource Area Delineation pursuant to the Wetlands Protection Act and the Town of Hingham Wetlands Bylaw.
- b. Resource areas shown on the Existing Conditions plan dated 1/17/17 and evaluated in the field are confirmed.

**Second:** Commissioner Freeman

**In Favor:** All

**Opposed:** None

**Commissioner Mclsaac read the Public Hearing Notice of Intent.**

#### **Notices of Intent**

**86 Pleasant Street** – DEP 034-1274, continued from 2/6/17

Applicant: Capell, LLC

Representative: John Cavanaro, Cavanaro Consulting

Proposed: Replacement of an existing corral with a covered riding ring

This hearing is continued from the February 6, 2017 meeting. The Commission needed more time to research GGT (German Geo Textile), the product proposed for the open riding ring.

Commissioner Hidell received the following information, as well as an MSDS sheet, from Michael Waidlich of East-West Arena Construction, LLC: "This is a virgin polyester product that is new and unused. There is no chemical coating or other treatment that has been done to the product. It is made with the intent to be safe for both human and animal contact and is used as a stabilizer for the arena sand which provides cushion and support for the horses feet, joints and tendons. I will be reducing the amount used in this application to half of a pound per square foot in five inches of sand depth. Once it is mixed and bound with the sand it holds together very well and I believe it will stay in place during a flood event."

Commissioner Hidell also met with Leigh Fibers (Hingham, MA) and provided the following additional information: "I had a meeting with Leigh yesterday Monday). They supply some of the fiber material to Polysolv the parent company of GGT. The GGT production facility is in Spartanburg, SC near the Leigh Fibers production facility. The fibers are not virgin material as reported by the engineer and the owner of the East-West Arenas, Inc. I did explore what chemicals may be

used on the fibers. It is reported that the only chemical used would be to facilitate the extrusion of the fiber during manufacturing. There is no toxic ingredient associated with this process according to Leigh Fibers.

The issue of toxicity is a concern only at the time of flooding on the arena. I would say at this point, we would need the actual specification of fiber to sand matrix as used at the site for our records. There is nothing that I have reviewed that would indicate that the application of this material would pose an environmental risk. As to its stability during flooding, I suspect it has the same characteristics as sand during a flood. It could move depending on current velocity.”

Staff forwarded this information to the applicant and added a condition (#15) to address Commissioner Hidell’s recommendation.

John Cavanaro (Cavanaro Consulting) and Al St. Peter (representative for Capell, LLC) were present to discuss the proposal. The Conservation Officer had received an email (late in the day) from Commissioner Hidell, who was unable to attend the meeting, with some additional thoughts in regards to the project:

1. The applicant should report the sand/fiber mix.
2. That the C.O. be notified before they put the sand/fiber mix down so that she may inspect the ground preparation - gravel layer and filter fabric installation.
3. That the applicant submit a sample of the filter fabric and specify the crushed stone size they intend to install.
4. That the applicant be required to submit a finished grade plan.

The C.O. forwarded the recommendations on to the applicant, who reviewed them and felt they were reasonable.

Commissioner Freeman commented that, where this use was already established on this site, to work with the applicant to try to make an improvement is fine, but likely, in future, were the board to be faced with a proposal to place a riding ring in a floodplain, it would not be permitted. Having protections and controls embedded in the Order, which allow for careful installation, monitoring and evaluation of the product, she is okay with using this as a test case.

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

**Motion:** Commissioner Freeman motioned to issue an Order of Conditions for the proposed work at 86 Pleasant Street, as shown on the submitted plans, and adopt the findings of fact a and b, and special conditions 1 through 22 of the staff report.

Findings:

- a. The project meets the 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.

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. Prior to the start of any excavation or construction, the applicant shall submit a sample of the filter fabric to the Commission and specify, in writing to the Commission, the crushed stone material and size.
7. 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.
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. No vehicle, or other machinery, refueling, lubrication or maintenance 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. The existing surface of the open riding ring shall be excavated and properly disposed of at an off-site location.
16. The filter fabric and crushed stone base for the open riding ring shall be inspected by an agent of the Commission prior to the installation of the material used to replace the surface of the open riding ring.
17. The applicant shall submit information on the final specification for the material used to replace the surface of the open riding ring, including the geotextile to fiber blend and the GGT to sand blend, to the Commission no more than 10 business days following the installation.
18. The wetland replication area shall be monitored for two full growing seasons following construction. Monitoring reports shall be submitted to the Commission no later than December 15<sup>th</sup> of each year.
19. There shall be no additional alteration, including replacement material of any kind or quantity, of the surface of the open riding ring without the review and approval of the Commission. This condition shall apply in **perpetuity** and shall not expire with the issuance of a Certificate of Compliance.
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 wetland replication area plantings shall survive at least two full growing seasons with a minimum of 75% survival rate.

**Second:** Commissioner Mosher

**In Favor:** All

**Opposed:** None

**73 Abington Street** – DEP 034-1275, continued from 2/6/17

Applicant: MDC Properties – Abington Street LLC

Representative: Gabe Crocker

Proposed: Day care facility

The applicant submitted revised plans and a set of comments in response to Paul Brogna's peer review comments. The most significant revisions included a reduction in the wetland area impacted by the main access driveway (715 ft<sup>2</sup> vs. 800 ft<sup>2</sup>); a reduction in the wetland replication area (1,430 ft<sup>2</sup> vs. 2,400 ft<sup>2</sup>); the elimination of the emergency access driveway; a reduction in the slope of the main access driveway (4% vs. 6%); and the addition of a third 15" pipe under the main access driveway for additional capacity.

Mr. Brogna reviewed the revised plans and comments, and submitted a second set of comments in response. The applicant responded with additional revisions to their plans in response to these comments.

Attorney Adam Brodsky and Dan Saley (Project Engineer, CHA Consulting Inc.) were present to discuss the proposal. Peer Reviewer Paul Brogna (Seacoast Engineering) was present as was Frank Polak (manager of MDC Properties, Abington Street, LLC). Mr. Saley submitted a copy of the 401 Water Quality Certification application along with revised Site Design & Permitting Plans (revision #2 response to comments 2/23/2017).

Mr. Saley reviewed some comments (second set of comments) from Mr. Brogna and their responses:

- Snow storage plan (submitted as of the preceding Friday) – during a 12 inch snow event, the snow pile would be located in the back row of parking and on half of the landscaping, so when snow melts, it would be treated through the infiltration system and drain down to the rain garden.
- Capacity for three 15 inch pipes – Mr. Brogna had suggested upsizing those to three 18 inch pipes which CHA has done.

Mr. Brogna reviewed and commented:

- Emergency access road taken off the plan. Letter from Captain Damstra stated access road unnecessary.
- As of right now, most of the issues have been resolved.
- Regarding untreated storage of the lower portion of the driveway: the applicant proposes a reduced slope of driveway, added a trench drain at the intersection of driveway of Abington Street, also added a sedimentation trench to pretreat the stormwater in the last 100 ft. of driveway before it reaches the trench drain – the trench drain is in the right of way and so will need to coordination with the DPW.
- They reduced wetland mitigation from 3:1 to 2:1.
- Snow storage plan is acceptable.
- Everything meets the regulations. It is a sensitive site and the timing of construction is important.

The Conservation Officer stated that she had not drafted conditions to give the Commission the opportunity to hear from both the applicant and peer reviewer, and have them address their remaining concerns.

The height of building was reduced. Commissioner McIsaac asked about using fill and was informed that the corners of building would be using some fill in areas where it was a foot below grade.

Commissioner McIsaac asked Mr. Brogna about the proposed trench drain. Mr. Brogna explained that it was a trench drain set with poured concrete forms. The changed grade of the driveway to a 4% slope made it easier for the drain to handle the runoff. It will need to be monitored so that the runoff will not run over the top of the drain and run down Abington Street. Mr. Brogna suggested that a draft condition could be to design the gravel trench to collect stormwater that may come up and over so there are two chances for the water to be collected and treated.

Commissioner DuBois stated that she was concerned about the wetland crossing, more specifically related to volume of vehicles travelling back and forth and the associated pollutants. Mr. Brodsky responded that the proposal meets all requirements; that they are completely avoiding the vernal pool; and offering mitigation. He also suggested that the traffic volume is more of a concern for zoning and planning.

Commissioner Freeman reminded everyone that using an alternative route was discussed previously and that she still thought that option should be considered where it is less impactful on the wetlands. Mr. Brodsky stated that the proposed driveway was the most direct and safest access to the site for emergency vehicles and also for parents bringing children; reducing traffic impact to the neighbors was also an important factor in the design.

Commissioner Hall pointed out that it had been left unanswered just how strong was the Captain Damstra's preference for the 'main' drive versus the 'access' road. There was never any quantification of what that preference meant. Mr. Brodsky explained that a letter from Lieutenant DiNapoli had been submitted, although it admittedly does not contain the clarification sought by Commissioner Hall. The letter stated that only one means of access was required.

Mr. Saley had spoken to Lt. DiNapoli on 1/20/17, reviewed the site with him and agreed that the length of the proposed main driveway, at 300 ft., would be more than doubled if relocated to the 'access' road site, increasing response time. Discussion followed with questions regarding the 'access drive' location. Two houses would be impacted by the drive if it were to be located there; the distance from the 'access drive' to the houses would be 60 ft.

Commissioner Hall stated that he would like to see something in writing from Lt. DiNapoli that indicates he evaluated both driveway options and that the proposed main drive has a significant and tangible advantage over the alternative 'access' drive. Further discussion followed regarding the safety management of the site, what are the interests of the Conservation Commission, and the definition of 'practicable'.

Commissioner Morrissey presented his view; asking "how much good are we gaining for the wetlands overall, with the imposition of a driveway over a portion of the wetlands." His understanding was that the proposal provides for treatment of the surface water; he was less concerned about neighbors' disturbance but considers the improvement of conditions, notwithstanding a certain amount of encroachment on the wetlands, as an overall benefit. He suggested it would be helpful to the applicants to know if the Commission was going to require them to design for the other driveway; it was pointed out that in the two prior meetings, commissioners were enquiring about using the other drive as the main drive and received nebulous responses.

Mr. Brodsky stated that they will go back to the fire marshal for a more concrete explanation, that he believes there is a net environmental benefit to the wetlands and reminded the Commission that the regulations allow them to permit up to 5,000 sq. ft. of bordering vegetated wetland alteration and this project is asking to alter a little over 700 sq. ft. He further stated that the definition of practicable in the wetlands regulations includes taking into consideration costs, proposed use, logistics in light of the overall project's purposes. He argued that the purpose, a daycare facility with young children, requires public safety to be a consideration and that the proposed main drive is the most direct.

Commissioner Mclsaac commented that where the wetlands were are already heavily stressed, the effect of this amount of alteration might not be as critical as if this were a pristine wetland, and in fact, the mitigation proposed could create an overall better wetland than currently exists.

Mr. Brodsky said they are willing to consider any further mitigation the commission would require. Commissioner Morrissey suggested that, with a divided Commission, the applicant would do well to return to the Commission with what they can propose for the best possible mitigation.

Commissioner Freeman stated that, where there is a reasonable alternative, not necessarily the one favored by the applicant, the Commission, instead of accommodating the applicant and regardless of the wetland's presumably stressed condition, is obligated to look at that alternative.

Commissioner Mosher asked Mr. Brogna if he felt that the wetlands would be better off. Based on his notes, Mr. Brogna noted that at one of the first meetings it was put upon the applicant to explain why one drive was preferable than the other option, where one required a wetland crossing and the other was 'high and dry.' It was more of an operational preference rather than an environmental concern.

Mr. Brodsky concluded by stating they would contact the fire marshal and reach out to the C.O. to discuss possible further mitigation. Commissioner Mclsaac suggested a possible vernal education program for the children of the daycare facility.

**Motion:** Commissioner Freeman motioned to continue the hearing for 73 Abington Street, DEP 034-1275, to March 13, 2017.

**Second:** Commissioner Mosher

**In Favor:** All

**Opposed:** None

**2 Planter's Field Lane – DEP 034-1284**

Applicant: Feeley Realty Trust

Representative: Mark Manganello

Proposed: Subdivision

The applicant is proposing to construct three single family homes on the property, the majority of which fall outside of the Commission's jurisdiction. Two of the three lots feature retaining walls within the 100 foot buffer zone. In order to access the homes, an existing, narrow, dirt cart path will be expanded and paved. The improved roadway will extend approximately 300 feet from Planter's Field Lane across the wetland to a cul-de-sac in the upland portion of the property. The applicant estimates 1,770 ft<sup>2</sup> of disturbance in the wetland as a result of the roadway construction. There are no other means of accessing the upland area of the property that would result in less or no disturbance of wetlands. A 3 feet by 4 feet concrete box culvert will be installed to allow for water passage underneath the roadway. The runoff from the road will be directed into two proprietary sediment removal devices and then into two water quality swales, located in the 50 and 100 foot buffer zones.

The applicant is proposing two wetland replication areas totaling 3,960 ft<sup>2</sup> to mitigate for the construction of the roadway. A 3,000 ft<sup>2</sup> replication area will be located at the northern end of the property, adjacent to the wetland (between flags 5-11) and the second 960 ft<sup>2</sup> replication area will be located on the eastern side of the property, between the wetland (between flags A21-A24) and Planter's Field Lane. The applicant is also proposing a 5,000 ft<sup>2</sup> buffer zone restoration area located on the southeastern side of the property, within the 50 foot buffer zone. The wetland replication areas and buffer zone restoration area and will be monitored by a wetland scientist during and post-construction. Monitoring reports will be submitted to the Commission during the first two growing seasons.

Staff visited the site on 2/15/17. There is evidence of standing water on either side of the cart path. The existing culvert under the cart path is in disrepair. The wetlands to the southern side of the cart path are overgrown with phragmites; the northern side has more woody vegetation and brush. The upland portion of the site is wooded.

The applicant also filed with the Planning Board, who obtained Paul Brogna as a peer reviewer for the project. Mr. Brogna will be providing comments on the project's stormwater management system as part of his review for the Planning Board, in time for the March 6, 2017 Planning Board meeting.

Mr. Manganello, from LEC, reviewed the wetland implications. He stated that the parcel does not contain any mapped rare species habitat and there's no proposed disturbance to FEMA floodplains. A specific planting plan is included in the plan set with specific species and number of plantings.

Thomas A. Pozerski, P.E., LEED AP, Merrill Engineering, reviewing the proposal, talked about the plan showing a 20 ft. wide drive and a sidewalk and stated that the sidewalk could be removed and because it's a private road, they could reduce the width to 18 ft. wide. They would be willing to leave the stormwater structures the same size and keep the buffer zone mitigation the same size.

The C.O. explained that this was simply an initial presentation and that the applicant had simultaneously applied with the planning board. The applicant received initial comments from Mr. Brogna that day, and the Commission will be awaiting revisions based on those comments. Commissioner Morrissey asked if there were any means to access the upland without crossing the wetland; the response was negative.

Commissioner Mclsaac invited any comments from the public.

Gary Barrett, 36 Planter's Field Lane, stated that he does not have fundamental concerns about the proposal but has questions for his own education. Looking at the plan, it seemed to him as if they are proposing to replicate wetland where there already is wetland. Mr. Manganello explained that they had delineated the wetlands based on analysis of vegetation, plant community, and soil characteristics to get a long term picture of where the groundwater table is. They look for where the groundwater is within a foot of the surface and a predominance of wetland plants. When they



propose wetland replication they try to place it as close to the wetland boundary as possible as it has a highest likelihood of success. Where they are proposing to replicate is just on the upland side of the wetland boundary, they would excavate down one to two feet closer to the groundwater table in order to replicate the a wetland. He also asked about deer and it was explained that, as a non-rare species, deer are not taken into consideration. Mr. Barrett also had questions regarding the highway, road crossing and sewer connection. The site will connect to the town sewer, with no impact to existing system, and the road will be private. Mr. Barrett asked about the safety for the children crossing the new 'road.' Mr. Pozerski assured him that they could have a stop line, cross hatching and good site lines on either side of the drive.

Nancy Hayes, of 71 Nokomis Road, stated that there was ledge on the upland and asked if blasting would be required. Mr. Pozerski thought that it would likely be jackhammered out.

With no other public comment, Commissioner Mclsaac closed the hearing to public comment.

**Motion:** Commissioner Hall motioned to continue the hearing for 2 Planter's Field Lane, DEP 034-1284, to March 13, 2017.

**Second:** Commissioner Dubois **In Favor:** All **Opposed:** None

**26 Bradley Park Drive** – DEP 034-1286

Applicant: Seth and Elizabeth Vinocur

Representative: Thomas Liddy, Lucas Environmental, LLC

Proposed: Construction of attached garage, mudroom and porches

The applicants are proposing to construct a 676 ft<sup>2</sup> two-car garage on a wall foundation in the northeast corner of their property, with 405 ft<sup>2</sup> of the garage located within the 50 foot buffer zone. A wall foundation is needed to better support the structure and minimize site grading. At the closest point, the wall foundation will be approximately 33 feet from the edge of the resource area. Alternative locations for the garage were examined, however because of lot constraints and zoning setbacks, this was determined to be the best location. A new driveway will be constructed in the 100 foot buffer zone to access the garage.

The applicants are also proposing to convert and expand an existing three-season porch into a mudroom, connecting the garage to the house. The finished area of the mudroom will be 192 ft<sup>2</sup>, all of which will be within the 50 foot buffer zone. The expanded portion of the mudroom will be constructed on sonotubes, the closest of which will be approximately 30 feet from the resource area. On the north side of the mudroom, a 47 ft<sup>2</sup> porch is proposed and to the south, 184 ft<sup>2</sup> of new deck will expand the existing deck, again the majority of which is within the 50 foot buffer zone. Finally, at the front of the house and within the 100 foot buffer zone, the applicants are proposing new walkways to connect the house to the mudroom and driveway. A new porch and front entry will be constructed as well.

To mitigate for the proposed work, the applicants are proposing to remove their existing paved driveway (1,157 ft<sup>2</sup>), which is currently located in the 50 foot buffer zone. In place of the driveway, new lawn and plantings will be added. The applicants are also proposing to add 1,295 ft<sup>2</sup> of plantings along the edge of the resource area. A total of 731 ft<sup>2</sup> of new structures are being added to the 50 foot buffer zone and more than 3:1 mitigation is being proposed for those improvements (2,452 ft<sup>2</sup> total).

Staff visited site on 2/15/17. The proposed location for the garage is maintained as lawn and slopes down towards the resource area. Cattails are visible at the edge of the lawn. The existing deck currently sits about 20 feet from the resource area and allows for water to reach the ground, and even for grass to grow. The existing paved driveway is located behind the house and is very close to the edge of the resource area. Staff does not believe the majority of the work will negatively impact the resource area. Staff is concerned about the roof drainage from the garage causing erosion during heavy rains. Staff recommends that the applicants look into either installing a drywell or rocky swale to reduce the likelihood of erosion. Although mitigation is proposed, according to the Hingham Wetland Regulations Section 23.7 (c), "No mitigation is sufficient to allow a structure on a wall-type foundation less than 50 feet from a

Resource Area....” The Commission has recently approved wall foundation projects within the 50 foot buffer zone, largely due to lot constraints.

Tom Liddy, wetland scientist for Lucas Environmental, LLC, reviewed the proposal and explained the constraints of the lot and described the driveway/access situation. The primary access to the property is achieved through a gravel easement for the Baker Hill subdivision; it is not a public way. Only a portion of it is paved, and in the winter they have to park in another part of the parcel because the Town does not plow the easement and they cannot get a private plow to clear the gravel section. They would like to achieve primary access off of Bradley Park Drive.

The Conservation Officer described the wetland behind the house as a high quality wetland, with very little invasive species and active with birds. She encouraged the applicant to try and design the garage without a wall foundation, but given the slope of the yard and in consideration of the weight of what the garage would support, a wall foundation was necessary.

Commissioner Hall asked the C.O. about her concerns regarding garage runoff. Mr. Liddy felt that stone swales would be most effective to capture runoff from the garage downspouts to help reduce erosion and slow down water runoff to the wetlands. Discussion followed regarding the lot’s constraints and the commendable effort made by the applicants to reduce the impact of their project and mitigate in the most effective manner.

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

**Motion:** Commissioner Freeman motioned to issue an Order of Conditions for the proposed work at 26 Bradley Park Drive, as shown on the submitted plans, and adopt the findings of facts a through c, and special conditions 1 through 18 of the staff report.

**Findings:**

- a. The project meets the 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 provided that 2,452 ft<sup>2</sup> of mitigation is implemented to offset the new impervious area on site, the work in the 50 foot buffer zone, and any natural or consequential impacts and effects of this work.
- c. The constraints on the applicant’s parcel and the setbacks required by the Town of Hingham Zoning Bylaw creates a unique set of circumstances under which the project is approved.

**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 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. The downspouts associated with the approved garage and mudroom shall be connected to a drywell or discharge into a rocky swale, or similar feature approved by the Commission, in order to prevent erosion and sedimentation. This condition shall apply in **perpetuity** and shall not expire with the issuance of a Certificate of Compliance.
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.
18. 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 Mosher

**In Favor:** All

**Opposed:** None

**8 Smith Road** – DEP 034-1285

Applicant: Michael Martin

Proposed: Dwelling addition and alterations

The applicant is proposing to construct an addition (approximately 988 ft<sup>2</sup>) and an attached two-car garage (approximately 704 ft<sup>2</sup>) on a single family house (608 ft<sup>2</sup>), largely within the 100 foot buffer zone. A detached one-car garage (360 ft<sup>2</sup>) currently exists on the property. The addition will "fill the gap" between the house and the one-car garage. The majority of the existing house will remain in place; only the north facing section of the foundation and exterior wall will be demolished. The entire single-car garage will be demolished. The addition will feature a full basement and the rear portion (western) of the two-car garage will also have a wall foundation. The front (eastern) portion of the two-car garage will have a slab foundation. Approximately 17 ft<sup>2</sup> of the two-car garage's wall foundation will encroach on the 50 foot buffer zone. At the closest point, the wall foundation will be 47 feet from the resource area. At the rear of the addition, a 364 ft<sup>2</sup> deck is proposed and on the front of the house, a porch (approximately 362 ft<sup>2</sup>) is proposed.

The applicant is also proposing to save approximately 20 yd<sup>3</sup> of the excavated soil for landscaping, mitigation plantings, and post construction surface repairs. The remainder of the soil will be transported off site. For mitigation, the applicant is proposing 210 ft<sup>2</sup> of plantings for the 17 ft<sup>2</sup> of foundation that will encroach on the 50 foot buffer zone (12:1 mitigation). The planting plan will be submitted to the Commission for approval prior to planting.

Staff visited site on 2/15/17. The existing house is in disrepair. The land slopes down from the house to the existing garage and the resource area. The wall foundation for the two-car garage appears to be necessary to ensure the stability of the structure on the existing grade. Most of the proposed work will take place in an area that is already disturbed and staff does not believe it will have a negative impact on the resource area.

Michael Martin presented his plans to the Commission. With no immediate questions or comments from the Commission, Commissioner McIsaac invited any comments from the public.

Ceranine Smith, 14 Smith Road, was present and supports improving the property, but with some reservations and concerns that increased runoff from the property will not only increase the amount of wetlands on her property, but possibly impact her septic system. Mr. Martin stated that he believed that with the slope of land that any runoff would go towards the stream in the back and not necessarily towards Ms. Smith's house. The Commission asked further questions about the locations of Ms. Smith's house, her septic area, Mr. Martin's proposed house and the wetlands. Discussion followed regarding the best solution and rocky swales or drywells under the downspouts being seen as the options. The Conservation Officer asked Ms. Smith if she felt comfortable with the suggestion of downspouts connected to drywells/rocky swales to mitigate and control the dispersal of water runoff. She stated that she was. The Commission and the applicant agreed to a condition that would cover the installation of drywells/rocky swales.

With no further public comment, Commissioner McIsaac closed the hearing to public comment.

**Motion:** Commissioner Freeman motioned to issue an Order of Conditions for the proposed work at 8 Smith Road, 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 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.

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 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. A mitigation area planting plan, showing a minimum of 210 square feet, shall be submitted to and approved by the Commission prior to planting.
16. The downspouts associated with the approved addition and attached 2 car garage shall be connected to a drywell or discharge into a rocky swale, or similar feature approved by the Commission, in order to prevent erosion and sedimentation. 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 area plantings shall survive at least two full growing seasons with a minimum of 75% survival rate.

**Second:** Commissioner Morrissey

**In Favor:** All

**Opposed:** None

**Other Business:**

Update on 171 Otis Street (DEP 034-1282) - The Conservation Officer explained the need for a peer reviewer for this project. She had been tasked, at a prior hearing, with research on which design would be less impactful, but the reality was that was impractical; the time it would take to get to the level of expertise needed to give a comprehensive analysis was not within her schedule. Discussion followed about what exactly the Commission was trying to determine by further investigation; 'whether what was proposed was more impactful' or 'what would the criteria be to determine impacts and then how much weight to give to the criteria.'

Commissioner Morrissey raised the issue of whether it's the regulations that need changing. He also raised the concern that if applicants think that they can just hire a peer reviewer when they want to do something that differs from the regulations then that is a dangerous path. Commissioner Freeman reiterated her belief that even if the regulations need changing, this project needs to be decided based on the current regulations. The C.O. informed the Commission that she had spoken to one of her contacts at DEP and received an opinion regarding the 2003 regulations that are the basis for the current Hingham regulations. Her contact did not think that the practices have changed, but did acknowledge that there were new products available.

The C.O. spoke to Adam Brodsky about the possibility of hiring a peer reviewer. He said he would speak to his client and offered some contacts. This raised the issue of applicants hiring or selecting their own peer reviewer. Discussion followed with the prospect raised of the Commission hiring a peer reviewer in order to refine the regulations, if needed. Commissioner Hall made the point that the underpinnings of the regulations are, for example, that we allow this much scouring or this much light penetration and if an applicant wants to deviate from that, they need to prove that they still meet these criteria.

With the Commission not in complete agreement in regards to the project, it was decided that a peer review would be good for evaluating the project. The C.O. stated that Duxbury recommended two reviewers and the Commission thought that an expert, Rod Gaskell, who had been before them previously would also be a good choice.

Turkey Hill Advisory Committee Appointment – The Trustees of Reservations approached the Conservation Officer and asked for assistance in re-activating the Turkey Hill Advisory Committee. The C.O. explained that representatives from Hingham and Cohasset were needed. Laurie Freeman volunteered to be the appointee for the Commission.

**Motion:** Commissioner Morrissey motioned to appoint Laurie Freeman to the Turkey Hill Advisory Committee.

**Second:** Commissioner Mosher

**In Favor:** All

**Opposed:** None

Proposed Conservation Restriction at 230 Beal Street

The Conservation Officer informed the Commission of a proposed conservation restriction at the former Hingham Mutual site on Beal Street. There is an active 40B proposal in process and the applicants have proposed giving the Commission a 4 acre CR abutting Bare Cove Park. They propose constructing an ADA compliant boardwalk from the end of the development across a depression to Bare Cove Park. The C.O. has been in discussions regarding vegetation management and snow storage. The Commission would be required to maintain and monitor for compliance with the final agreed upon CR. This project is still to be discussed with the other boards. Commissioner McIsaac asked about staffing and financial resources to take on the CR. The C.O. indicated that the CR would be more accessible than others in Town, making it easier to monitor, and the discussion of an endowment was ongoing.

**The meeting adjourned at 10:00 PM.**

Submitted,

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Sylvia Schuler, Administrative Secretary

Approved on March 13, 2017