



# MANCHESTER-BY-THE-SEA

CONSERVATION COMMISSION • TOWN HALL  
Manchester-by-the-Sea, Massachusetts 01944-1399  
Telephone (978) 526-4397 FAX (978) 526-2001

## Conservation Commission Special Meeting

May 25, 2021

Zoom Virtual Meeting ♦ 6:30 PM

## MINUTES

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### I. Call to Order

**Members Present:** Steve Gang, David Lumsden, Henry Oettinger, Sari Oseasohn, John Judge, Olga Hayes, and Conservation Agent, Chris Bertoni.

**Members Absent:** Joe Puopolo

Conservation Chairman Mr. Gang opened the meeting at 6:30 pm under the Wetlands Protection Act and Town by-law. He announced that it was being recorded by the Commission. This was a virtual meeting.

**Acknowledgement of Mary Reilly, Grants Administrator:** Mr. Gang expressed his appreciation for Ms. Reilly's body of work which included her time as the previous Conservation Agent and generation of grant funds. Ms. Hayes spoke of Ms. Reilly's formation of the Open Space and Recreation Committee and of her volunteerism. She expressed how greatly missed Ms. Reilly will be.

Mr. Gang also remembered former Conservation Commission member who passed away Jens Kure-Jenson for his diligence and commitment to Conservation.

### II. Requests for De Minimis Change

**4 Kings Way, Paul Stump – demolish existing single-family home, construction of a new single-family home with upgrades to the existing septic system within the 100' Buffer and 50' No Build Zone Buffer to Bordering Vegetative Wetland**

New

DEP File #39-0814

Ms. Bertoni had been on site and spoke with the septic installer, Mr. Filias. The plans did not account for an over dig and now there are two Norway Maple and one small pine that are in harm's way. The installer cannot get the septic in its space without removing those three additional trees. The applicant asked to remove those trees. The area will be rehabilitated.

**Vote:** To approve the De Minimis Change.

Motion: Mr. Gang

Second: Ms. Oseasohn

Actual Vote: 6-0

### III. Requests for Certificates of Compliance

**19 Central Street, Charles Benevento/19 Central Street, LLC – restorative enhancements: installing native vegetation, relocating stone retaining wall & boulders, relocating brick patio**

Continued from 4/13/21 5/4/2021

DEP File #39-0778

The Commission had issued an extension 1+ years ago to finish the work. The consultant would like to withdraw the Certificate of Compliance Request until they can get the work done. The request for a Certificate of Compliance is withdrawn.

**19 Highland Avenue, Amanda McGrath – Construction of garage addition and driveway reconfiguration within 100' Buffer to Isolated Vegetated Wetland**

New

DEP File #39-0750

The homeowner, Amanda McGrath, presented. This project was a garage addition and driveway. She decided not to do the project, so no work was done. There is another project that she wants to do so Ms. Bertoni advised her to close out this Order of Conditions.

**Vote:** To issue an Invalid Order of Conditions.

Motion: Mr. Gang

Second: Mr. Oettinger

Actual Vote: 6-0

**15 Ashland Avenue, Crocker's Boat Yard, Samuel S. Crocker, 5<sup>th</sup> – Expansion of existing dockage and a proposed dock Reconfiguration Zone within Land Under Ocean, Land Containing Shellfish, and Land Subject to Coastal Storm Flowage**

New

DEP File #39-0813

Susan St. Pierre presented. Skip Crocker was in attendance. The work was completed on the floating dock expansion. There were a few minor changes. They had planned for 33 piles and installed just 27. The platforms for two floats were to be 25' long X 6' wide. They now measure 25' long X 4' wide. They would like to keep the Reconfiguration Zone as approved. Ms. Bertoni informed the Commission that there was a specific condition regarding funding an eelgrass project that does not apply to this project because it is not an Army Corps project, therefore the special condition cannot apply. Ms. Bertoni did a site visit with the consultant and owner and reported that the As-Built Plan appears to be accurate.

**Vote:** To issue an Order of Conditions with special and perpetual conditions.

Motion: Mr. Judge

Second: None

Actual Vote: 6-0

**IV. Recess for Public Hearings under Wetlands Protection Act and Local Wetlands By-Law**

**V. Abbreviated Notice of Resource Area Delineation (ANRAD)**

**0 School Street (map 43, lot 18), Geoff Engler, SLV School Street LLC – request for confirmation of boundary delineation of Bordering Vegetative Wetland (approximately 4,010 linear feet of boundary)**

Continued from 10/13/20, 11/3/20, 11/24/20, 12/15/20, 1/9/21, 2/9/21, 3/2/21, 3/23/21, 4/13/21, 5/4/21

DEP File #39-0834

Dan Wells of Goddard Consulting for the applicant, and Mike DeRosa of DeRosa Environmental Consulting, Peer Reviewer, in attendance. Ms. Oseasohn reminded the Commission and attendees that this was a continued review of the ANRAD, not a proposed project. Mr. Wells presented his onsite review at the last meeting. Mr. DeRosa presented his review. He had visited the site several times with Mr. Wells. He agreed with Mr. Wells regarding all the Bordering Vegetated Wetland (BVW) designations, the Isolated Land Subject to Flooding (ILSF) designation in the Wetland B series, the Riverfront Area designation, and the offsite delineation for additional wetlands. He also found that in Wetlands D and F that are associated with Sawmill Brook there were salamander eggs. This was interesting because the salamanders had adapted to streambank areas. He agrees the area is not certifiable, but it is an important habitat. Mr. DeRosa disagreed with the designation that only small portions of the A-series are Vernal Pool habitat. He believes the whole A-

series is a viable Vernal Pool habitat. In wet years that entire area could be Vernal Pool habitat, so did not want to exclude certain areas prematurely. In the Ravine Area, Mr. DeRosa found all upland vegetation. Ms. Bertoni verified that the revised date for the plan was 4/27/21. Mr. Gang pointed out the Mr. DeRosa recommended further review of D & F-series wetlands functioning as Vernal Pool habitat. Mr. Wells didn't expect the Commission to confirm Vernal Pool boundaries but that it would be helpful for the future. Patrick Garner of MECT was in agreement with Mr. DeRosa. Mr. Garner was concerned that the 100' Buffer Zone for the offsite BVW did not show on the plan. Mr. Wells said he would provide the state Buffer Zone on an updated plan. Elizabeth Pyle, attorney for Hill Law representing MECT, requested the Commission include the qualifying language in Patrick Garner's Letter. It would prevent conflicts down the line.

**Vote:** To close the hearing.

Motion: Mr. Gang

Second: Ms. Hayes

Actual Vote: 6-0

## **VI. Notice of Intent**

### **21 Proctor Street, Thomas "Colby" & Laura West – request to install four greenheart piles for gangway and float and permit an existing wharf within Salt Marsh, Land Under Waterbodies, and Land Subject to Coastal Storm Flowage**

Continued from 2/9/21, 3/2/21, 3/23/21, 4/13/21, 5/4/21

**DEP File #39-0843**

The homeowner was not at the meeting. Mr. Gang informed the Committee that there had been email communication. On a 5/17/21 email to Town Administrator Greg Federspiel, Mr. West requested that the Conservation Commission "cease and desist" any action on the Notice of Intent. On 5/18/21 Mr. Federspiel responded he interprets the email as Mr. West's request to withdraw the NOI. Per the Commission's direction, Ms. Bertoni mailed a detailed letter on 5/11/21 to the homeowner/applicant outlining what information was needed for this application. Mr. West responded to the letter via email on 5/13/21. The email was not responsive to the information being requested. Ms. Bertoni informed the Commission that as of this meeting it has not received any of the new information requested in the letter. On advice from Town Counsel, Ms. Bertoni suggested that the Committee take Mr. Federspiel's email as a request to withdraw the application and the Commission agreed.

### **128 Bridge Street, Peter & Victoria Morton – construction of patio, associated landscaping, reconstruction, and relocation of detached garage within the 100', 50' No Build Zone Buffers to Bordering Vegetated Wetland**

Continued from 5/4/21

**DEP File #39-0847**

Mary Rimmer of Rimmer Environmental Consulting, LLC., presented. The homeowners were in attendance. A site visit occurred. There are two revisions to the plan based on recommendations from the Commissioners. The first is to adjust the planting at the rear of the yard. The second is to adjust the garage so that the whole garage is outside the 30' No Build Zone. The whole garage will be rotated. The date of the revised plan is 5/25/21. The Commissioners appreciated the adjustments

**Vote:** To close the hearing.

Motion: Mr. Gang

Second: Ms. Hayes

Actual Vote: 6-0

### **94 Bridge Street, Edward & Karen Crawley – installation of a timber pier, a gangway and float, and repairs & improvements to an existing seawall (Whittier's Cover) within Land Subject to Coastal Storm Flowage, Coastal Bank, Coastal Beach, and Land Under Ocean**

New

**DEP File #39-0XXX**

Susan St. Pierre presented. The homeowners were in attendance. At the time of the hearing the DEP File number had not yet been assigned. The proposed project is a pier, gangway, float, and seawall improvements. There is a (recently discovered) salt marsh on site that will be addressed. The property is at elevation 10 – Land Subject to Coastal Storm Flowage (LSCSF). The whole site is Coastal Bank. There is Coastal Beach and Tidal Flat. The seawall is 87 l.f. The facility will only be used at high tide. It will also be used to store kayaks and there will be a hoist to be able to pick up the skiff and put it on the dock.

The landing area at the top is 5'X10' with an area for stairs which is 4'X5'. The pier will be 42' L, 5' W. The float will be 8' X 16' wide. There will be 12 piles (4 of the piles supporting the float), 4 on land and 8 on the Coastal Bank. The gangway will be 22' L X 3' W. To repair the seawall they will chink the stones, add 2-2 ½' in height and grading in the back. This may be modified due to salt marsh. There will be minimal impacts as far as square footage. The impacts will be: Coastal Beach 6.2 s.f., Coastal Bank 97 l.f., and LSCSF 23.16 s.f. There is no eelgrass in the area. The float was originally planned to be larger, and they decided to reduce it. The boat to be tied up is 26' in length. The piles will be driven by pile drivers from a barge, not jetted. Some work will be done by hand on the seawall. She will consider a softer approach to the seawall as suggested by the Department of Marine Fisheries. Ms. St. Pierre will also find a wetland scientist to flag the salt marsh. The Commissioners requested a site visit and was one scheduled for Monday June 14, 2021, at 9:00 a.m.

**Vote:** To continue the matter to the 6/22/21 meeting.

Motion: Mr. Gang

Second: Ms. Oseasohn

Actual Vote: Unanimous Consent

## **VII. Reconvene Regular Meeting**

## **VIII. New/Other Business**

**Amitié Submarine Cable:** Ms. Bertoni informed the Commissioners that the project is going ahead. The Ch. 91 license has been applied for and the Commission has been provided a Water Quality report.

**CATS Trail Stewardship Program:** A draft of the Cape Ann Trail Stewards (CATS) Trail Stewardship Policy Memorandum of Understanding was reviewed by the Commissioners. The understanding is that CATS would be working on trails in Manchester. It had the full support of the Open Space Committee.

**Vote:** To approve the MBTS/CATS Trail Stewardship Program.

Motion: Mr. Gang

Second: Ms. Hayes

Actual Vote: 5-0

**Frog Fungus:** No new information.

**Vote:** To continue the matter to the next meeting

Motion: Mr. Lumsden

Second: Ms. Oseasohn

Actual Vote: Unanimous Consent

### **Letter Permits:**

**89 Bridge Street:** relocate landscaping stones.

**48 Central Street:** plant in existing planting area.

**19 Highland Avenue:** a new addition, only extending into 100' Buffer by 18 s.f.

**17 Old Essex Road:** mudroom expansion over existing bulkhead, no change in footprint, no alteration.

**84 Pine Street:** above ground pool and deck.

### **Violations/Enforcement Order:**

**38 School Street:** On 11/24/20 Ms. Bertoni noted an unpermitted patio being installed. The workers stopped work. The site is stable. The contractor filed a Request for Determination of Applicability, but it was never completed. James Stewart, homeowner, was in attendance and assured the Commission he would have the paperwork in by 6/7/21 at noon.

**4 Woodholm Road:** There is an unpermitted fence installation. The homeowner Mark Guinane installed the fence last month after trees and shrubs were removed by his neighbor. He did speak with Building Inspector, Paul Orlando and pulled a permit. The fence is 200' long. Ms. Bertoni pointed out that area is Riverfront. She explained that the fencing can be approved. She didn't see any alteration of land. There is a gap in critical areas. The Commissioners agree to handle it as a Letter Permit.

**9 Butler Avenue:** Mr. O'Hara (homeowner) informed the Commission that he has two piles of wood chips that has been there for over a year. The plan was to put it down for added parking space next to his driveway. Ms. Bertoni informed him that the piles are very close to the 100' Buffer to the wetland and asked him to consider putting in something that would be functional long term. Mr. O'Hara said the piles would be removed and may bring in crushed stone. Ms. Bertoni suggested he submit a Request for Determination.

**Water Resources Protection Committee:** The Open Space Committee had proposed reinstating the Water Resources Protection Committee. Mr. Gang (a member of the Open Space Committee) asked that the Commission think about being part of or overseeing this Committee. There has been resistance from the Board of Selectman and Planning Board regarding there already being too many committees and no one wanting to take responsibility. Mr. Gang suggested that it could be a project or an ad-hoc committee with a defined mission and a deadline. It would need a budget. Mr. Judge would like to see a major mapping of the town to be used for a Master Plan for Natural Resources.

#### **IX. Orders of Conditions:**

**Order of Resource Area Delineation (ORAD), 0 School Street –** The Commissioners discussed conditions.

**Vote:** To accept the ORAD with conditions.

Motion: Mr. Gang

Second: Mr. Oettinger

Actual Vote: 6-0

**128 Bridge Street –** The Commissioners discussed conditions.

**Vote:** To issue an Order of Conditions with special and perpetual conditions.

Motion: Mr. Gang

Second: Ms. Oseasohn

Actual Vote: 6-0

#### **X. Approval of Minutes**

**2/9/21 –** Commissioners discussed corrections.

**Vote:** To accept the minutes as amended.

Motion: Mr. Gang

Second: Mr. Lumsden

Actual Vote: Unanimous Consent

**3/2/2021 –** Postponed to the next meeting.

#### **XI. Adjournment:**

There being no further business, the meeting was adjourned at 8:53 p.m. The motion was presented by Ms. Hayes and seconded by Ms. Oseason and approved by unanimous consent.

Submitted by,

Eva Palmer

**XII. Meeting Documents:**

- Request for De Minimis Change – 4 King’s Way submitted by Paul Stump.
- Requests for Certificates of Compliance – 19 Central Street submitted by Charles Benevento/19 Central Street, LLC
- Request for Certificate of Compliance – 19 Highland Avenue submitted by Amanda McGrath.
- Request for Certificate of Compliance – 15 Ashland Avenue submitted by Crocker’s Boat Yard, Samuel S. Crocker, 5<sup>th</sup>.
- ANRAD – 0 School Street submitted by Geoff Engler, SLV School Street LLC.
- Notice of Intent – 21 Proctor Street submitted by Thomas “Colby” & Laura West.
- Notice of Intent – 128 Bridge Street submitted by Peter & Victoria Morton.
- Notice of Intent – 94 Bridge Street submitted by Edward & Karen Crawley.
- MBTS-CATS Trail Stewardship Policy 2021
- Amitié Submarine Cable 401 Water Quality Report & Ch. 91 Waterways License Application.