



# 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 Meeting

June 4, 2019

Town Hall, Room 5 ♦ 6:30 PM

## MINUTES

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### I. Call to Order

**Members Present:** Steve Gang, Steve Jaworski, Olga Hayes, Henry Oettinger, Joe Puopolo and Conservation Agent, Chris Bertoni.

**Members Absent:** Sari Oseasohn, David Lumsden

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.

### II. Requests for Certificates of Compliance

#### **53 Raymond Street, Lee Delicker – house addition and septic system upgrade within 100', 50' NBZ and 30' NDZ buffers to Coastal Bank**

Continued from 4/23/19, 5/14/19

**DEP File #39-0422**

Mike DeRosa of DeRosa Environmental Consulting presented with April Ferraro of Meridian in attendance. A site visit with Ms. Bertoni occurred the previous day. The work under the Enforcement Order that needed to be done to return the project to compliance with the original Order of Conditions is completed. The driveway pavement is now pavers. The joints between the pavers in the patio have been cleaned out and gravel has been added in between the cracks. Water percolation tests were successful on all surfaces. The patio stones were recut, the seams were enlarged, and rice stone was added. Beach grass was planted on both sides of the driveway. Ms. Bertoni shared photos of the site.

**Vote:** To lift the Enforcement Order.

Motion: Mr. Gang

Second: Ms. Hayes

Actual Vote: 5-0

**Vote:** To issue a Certificate of Compliance with 3 perpetual conditions.

Motion: Mr. Gang

Second: Ms. Hayes

Actual Vote: 5-0

#### **31 Proctor Street, Katherine & Philip Bullen/Bullen Nominee Trust – reconfiguration of bottom-anchored floats**

Continued from 12/4/18 to 5/14/19

**DEP File #39-0725**

Mary Rimmer of Rimmer Environmental Consulting presented. This project was a float reconfiguration. It is a 12X24' float with a 12X12' float attached to it (this is a change from the original permitted plan). A site visit with Ms. Bertoni occurred. The work conforms with the plan. The approved plan will be used as the As-Built Plan.

**Vote:** To issue a Certificate of Compliance with 3 special conditions.

Motion: Mr. Gang

Second: Ms. Hayes

Actual Vote: 5-0

Mr. Gang adds as an amendment the condition that the floats will not rest on the bottom at low tide.

**33 Proctor Street, Katherine & Phillip Bullen/Bullen Nominee Trust – after-the-fact authorization for additional length of pier and two seasonal bottom-anchored floats constructed by previous owner**  
Continued from 12/4/18 to 5/14/19 **DEP File #39-0724**

Mary Rimmer of Rimmer Environmental Consulting presented. This project was an expansion and addition of two 16X8' floats. At low tide these floats bottom out but there are stringer feet on them which prevent the float from resting on the bottom.

**Vote:** To issue a Certificate of Compliance with 4 special conditions and 2 perpetual conditions.

Motion: Mr. Gang

Second: Ms. Hayes

Actual Vote: 5-0

**III. Recess for Public Hearings under Wetlands Protection Act and Local Wetlands By-Law** (Mr. Gang)

**IV. Request for Determination of Applicability**

**38 & 40 Bridge Street (2 lots), Robert McDiarmid – installation of fencing, tree removal and pruning within the 30', 50', and 100' Buffers to Coastal Bank**  
New **2019-0010**

Robert (Bob) McDiarmid, property owner, presented. He is proposing tree work at 38 Bridge Street. Two trees have been recommended to be taken down due to large decay. One large tree overhangs his roof and his home insurance company requested some pruning. Cicoria Tree Service will do the work. Ben Staples of Cicoria also suggested some plantings and will email the plan to Ms. Berton. At 40 Bridge Street Mr. McDiarmid's insurance company requested he install a handrail or fence at the sea wall to prevent people from falling into the harbor. Story Fence Co. will do the work. The Commissioners would like the fence installed behind the seawall, not on it. A mitigation plan was discussed with recommendations from Cicoria Tree Service. Mr. Diarmid's son has a landscape business and will implement the mitigation landscaping.

**Vote:** To grant a Negative 2 and Negative 3 Determination of Applicability.

Motion: Mr. Gang

Second: Mr. Oettinger

Actual Vote: 5-0

**V. Notices of Intent**

**225 Summer Street, Edward Snyder & Emily Baluta – install a cobblestone driveway apron, a patio and landscaping within the 30' NDZ, 50' NBZ, and 100' Buffers to Bordering Vegetated Wetland**  
New **DEP File #39-0807**

Andrea Nilsen Morse of Nilsen Landscape Design LLC presented. Isaac Rowe of Araneo Landworks Inc. in attendance. The proposed project is to install a cobblestone apron and other drainage features, enlarge an existing patio and remove/replace aging landscaping. The issues at this property are drainage and limited availability of outdoor living space. The house sits below grade at Summer Street. Storm water flows down the driveway and pools in front of the house entrance and the garage. The area between the house and the

garage is constantly flooded. There are downspouts from the house and garage with existing perforated pipes that allow water to flow into the foundation (main entrance to house). The plan is to increase permeability at the driveway (less compacted more coarse material) and redirect storm water from the downspouts via non-perforated pipe to a new proposed rain garden in the No Build Zone. She proposes to install a cobblestone apron at the top of the driveway and in front of the garage, add a number of drains picking up water from the downspouts from house and routing it to the raingarden, and add a proposed blue stone landing area between the house and garage with a surface drain (impervious). The DPW has looked at possible mitigation on Rt. 127 to intercept runoff. The entire site is in the 100' Buffer to BVW. To add more outdoor living component she proposed to remove some existing trees that are encroaching on the house, open up a wooded area to create lawn space and border with native shrubs and ferns. There is a plan to expand the existing patio in back out to the western side of the property. It will be brick with stone joints and a wall around it. The existing rubble wall will be cleaned up and a native species garden installed. There will be an addition of trees on the southern section of the property. The proposed rain garden will be in a previously disturbed area. Wetland flagging was done by Hancock Associates for the previous owner when the septic system was upgraded. An email from an abutter at 195 Summer Street voiced concern regarding any activity near the intermittent stream between 216 and 218 Summer Street. Ms. Bertoni informed the abutter that no construction will occur near the stream. The Commissioners would like to see the site and a site visit is scheduled for Friday 6/7/19 at 5:00 p.m.

**Vote:** To continue the matter to the 6/25/19 meeting.

Motion: Mr. Gang

Second: Ms. Hayes

Actual Vote: 5-0

**Boardman Avenue (various locations), Boardman Avenue Association – milling and repaving a roadway (Boardman Avenue) within Riverfront Area, Land subject to Coastal Storm Flowage and the 30', 50', and 100' Buffers to Bordering Vegetated Wetland**

New

**DEP File #39-0808**

Vaclav Talacko of Hancock Associates presented. The first order of business is to withdraw the Order of Conditions for DEP File #39-0746, it was never recorded, no work was done, and is invalid. A letter of withdrawal was given to Ms. Bertoni and the Commission.

**Vote:** To withdraw the Order of Conditions for File #39-0746.

Motion: Mr. Gang

Second: Ms. Hayes

Actual Vote: 5-0

Last year the Boardman Avenue Association received a Determination of Applicability to repair areas of pavement on the roadway and this work was done to prevent additional damage to the area. The repair on the hill area was not done and it will be done with the rest of this project. The paving repairs will start at Bridge Street and end at the edge of the MBTA property on the other side of the causeway. The submitted plans show a detailed plan of the roadway. Siltation barriers will be installed. The proposed plan is to grind the road with a mill machine and repave in original footprint. Using Mass Highway Specifications there will be a 2" binder and 1½" topdressing. There is no increase in impervious area. The elevation will not increase. The roadway is being paved in kind, in place. The causeway area requires continued repair. There is constant travel by construction trucks on it. Ms. Bertoni informs the Commissioners that she sees no issue with this project - the Commission approved the project in the past, but this time, the Order will be recorded. One homeowner on Boardman Avenue has offered to use his address for recording the Order the deed. It is requested that the Commission not add perpetual conditions to the Order so that it may be completely closed out once the project is completed.

**Vote:** To close the hearing.

Motion: Mr. Gang

Second: Ms. Hayes

Actual Vote: 5-0

**43 Lincoln Street & 0 Brook Street, Avi Urbas, MERSD – demolish the existing and construct a new elementary school within Riverfront Area; Bordering Land Subject to Flooding; and the 100', 50' NBZ, and 30' NDZ buffers to Bordering Vegetative Wetland**

Continued from 3/12/19, 4/2/19 (no discussion), 4/23/19 (no discussion), 5/14/19

**DEP File #39-0800**

Mr. Gang informed the other Commissioners that he had spent some time with Steve Martell (Samiotes) and Mary Rimmer (Rimmer Environmental Consulting) discussing how the Commission views alternatives analysis and he feels the submitted report is lacking facts and numbers. He would like to see calculations on creative alternative analysis and prioritize building outside the buffer zones. His concern is that the alternative analysis has not considered an alternative that could move the building farther away from the resource. Without a suitable alternative analysis he feels that the Commission would have to approve the waiver under the By-law [Article XVII General Wetland Bylaw 9.6.3] which is to ignore activity in the buffer zone for the greater good. Steve Martell feels the alternative analysis meets the standards for redevelopment. In the plans a lot of mitigation plantings around the perimeter of the site has been added, one rain garden has been removed, planting added to another rain garden, the retaining wall has been moved outside the 50' buffer (no local waiver needed here), and there are changes to the grade in the Bordering Land Subject to Flooding. The only waiver needed is one for the 30' buffer. Mary Rimmer reiterates the alternative analysis: no build option (not an option), renovation of existing building (not an option), demolish and replace in same footprint (not a reasonable option due to no temporary location for students), build on existing site with school in session, and relocate building to tennis court area (more disturbance, in flood plain and the need for more compensatory flood storage). A building that takes everything out of the resource impacts other areas and still needs mitigation for lost flood plain. With the current plan some of the area in the 30' buffer will be improved substantially with the mitigation plan. She feels the proposed option is the best alternative. Bill Jones, peer reviewer, reviewed all of the alternatives. He agrees that the alternative analysis is not fully engineered out with impacts at this point, but he feels that virtually all of the other alternatives did not work programmatically and were not feasible. Although there will be temporary disturbance he feels at the end of the project there will be an improvement and the applicants have pulled back from the Riverfront resource. The mitigating measures to offset the waiver are on Table 1, C-2 plans. It shows areas that will be restored to greenspace that is currently impervious. In the 30' NDZ there will be a conservation mix meadow (previously pathway) that will be cut once a year. The wall will be moved. There will be 1434 sq. feet of restored area in the 30' buffer zone. In the 50' NBZ there will be 26,352 sq. feet of enhance buffer zone and the mowed lawn area is cut in half. The wall needs to be delivered. The current plan date is 5/21/19 and the applicant will send a new set of full final plans.

**Vote:** To close the hearing.

Motion: Ms. Hayes

Second: Mr. Puopolo

Actual Vote: 5-0

A special meeting is scheduled for Wednesday 6/19/19 at 5:00 p.m. to discuss conditions and vote.

**VI. Reconvene Regular Meeting (Mr. Gang)**

**VII. Old/New Business**

**Peer Review Invoice:** Ms. Bertoni informs the Commissioners that we have received an invoice for \$4,400 from Linden Engineering for the Peer Review at 43 Lincoln Street.

**Vote:** To approve payment of the invoice.

Motion: Ms. Hayes

Second: Mr. Gang

Actual Vote: 5-0

**Eelgrass subcommittee update:** Mr. Oettinger is waiting on Phil Colarusso. When the plants begin to go to seed, he'll assemble a team of divers. It will be a one day event. The Harbormaster and he are putting together permeable bags and weights. He would like the Commission to think about anchors in eelgrass areas and the philosophy of approving them. Also to identify eelgrass areas and what should be available there. Mr. Gang suggests looking at mitigation for land under ocean.

**Knotweed at Lobster Cover:** Ms. Bertoni informed the Commissioners that there is a knotweed pile at Lobster Cove. She talked to the Fire Chief and he will issue a fire permit and have a fire truck available for the students.

**CPA:** Ms. Hayes would like to leave on the agenda for next meeting a list of properties to look at for possible conservation use or restriction.

**3 Town-Owned Properties:** Ms. Bertoni is working with our grants administrator Mary Reilly. There may be a 4<sup>th</sup> and 5<sup>th</sup> properties to be considered for conservation restriction. Ms. Reilly will bring this up to the Open Space Committee for discussion

**10 Boardman Avenue:** Jack Ingram, arborist, presented. He needs to remove a dead Pine tree and flush cut it next to the Coastal Bank. He also would like to prune a few Cherry trees on the side. Ms. Bertoni did a site visit. The Commissioners agree to an Emergency Tree Removal Permit.

**MECT:** Mr. Gang informs the Commission that the MECT has wilderness conservation resources that draw 5 big ovals framing Manchester. They are not joined but are substantial chunks of woodland. He feels this is an intelligent way to look at a resource.

## **VIII. Orders of Conditions**

**Boardman Avenue** – Commissioners discussed conditions.

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

Motion: Ms. Hayes

Second: Mr. Gang

Actual Vote: 5-0

## **IX. Minutes - none**

## **X. Adjournment:**

There being no further business, a motion was made by Ms. Hayes to adjourn the meeting at 9:20 pm. This motion was seconded by Mr. Oettinger and voted in favor 5-0.

Submitted by,

Eva Palmer

## **XI.Meeting Documents (6/4):**

- NOI – 43 Lincoln Street Memorial Elementary School Project
- NOI – Boardman Avenue for milling and repaving a roadway submitted by the Boardman Avenue Association.
- RDA – 36 & 40 Bridge Street for installation of a fence and tree removal and pruning submitted by Robert McDiarmid.

- CoC Request – 53 Raymond Street for house addition and septic system upgrade submitted by Lee Delicker.
- CoC Request – 31 Proctor Street for reconfiguration of floats submitted by Katherine & Phillip Bullen/Bullen Nominee Trust.
- CoC Request – 33 Proctor Street for after the fact authorization for additional length of pier and two seasonal floats constructed by previous owner submitted by Katherine & Phillip Bullen/Bullen Nominee Trust.