

CITY OF BEVERLY
PUBLIC MEETING MINUTES

BOARD OR COMMISSION: Beverly Conservation Commission
SUBCOMMITTEE:
DATE: January 4, 2022
LOCATION: Virtual Meeting Access Only via Google Meet
MEMBERS PRESENT: Chair Christine Bertoni, Vice Chair Robert Buchsbaum,
William Squibb, David Alden - St. Pierre, Meghan Jones
MEMBERS ABSENT:
OTHERS PRESENT: Environmental Planner Jenna Pirrotta
RECORDER: Stacia Chamberlain

1. Chair Bertoni **calls the meeting to order** at 7:02 p.m. and reads the public notice regarding holding meetings remotely due to Covid-19. Bertoni notes that Alden – St. Pierre is not yet present, but is expected to arrive later in the evening.
2. **Recess for Public Hearing**
Buchsbaum moves to recess for public hearings. Seconded by Bertoni. Bertoni takes a roll call vote. Motion passes 4-0.
3. **Notice of Intent/Abbreviated Notice of Intent/Requests for Amended Order of Conditions**
 - a. **Cont.: 17R Webber Avenue, DEP File #5-1350** – construction of landscaping and hardscape features and paver patio – Jozef De Vries

Documents Reviewed: Notice of Intent application by Hancock Associates dated November 18, 2021 and revised site plans by Hancock Associates, dated December 23, 2021

Devon Morse, of Hancock Associates representing the applicant, is present to discuss the project. She recaps the project and the Commission’s site walk and resulting plan revisions. Morse describes the revisions which address the Commission’s earlier questions, including grading and stabilization of the slope at the end of Arlington Court and specification on the walkway and pavers. Bertoni asks about the stabilization of the slope in planting area and the spacing between the pavers. Morse describes the use of a biodegradable mesh that will be staked in place and the gaps between pavers to allow for grass growth. Buchsbaum asks if the grass between the pavers will be mowed. Morse confirms that it will be and Jozef De Vries, property owner, responds that he will trim the grass by hand taking care not to damage the pavers. Bertoni opens the hearing to comments from members of the public; there are none. There being no further comments or questions, Buchsbaum moves to close the hearing. Seconded by Bertoni. Bertoni takes a roll call vote. Motion passes 4-0.

- b. **Cont.: 183 West Street, DEP File #5-1352** – install sewer connection, repoint seawall, reconstruct retaining wall, and associated site work – Beverly Shore and Chubb Island, LLC c/o Maura Blundin

Documents Reviewed: Notice of Intent application and site plans by Griffin Engineering Group, dated November 18, 2021

Bob Griffin of Griffin Engineering is on call to discuss the project. He recaps the proposed project and the Commission's site visit. He notes that there is no Chapter 91 license for the property and that according to his research all of the property lies outside the Chapter 91 jurisdiction except one small corner of the waterfront property. Griffin describes details on the proposed pavers, noting that water would infiltrate through the gaps. Griffin reports that the landscape architect researched red maples and they have some salt tolerance. Buchsbaum suggested that there may be better choices for this area that are more salt tolerant and suggests a survivorship clause if the owner is insistent on planting a red maple tree.

There being no further comments and questions from Commissioners or staff, Bertoni opens the hearing to members of the public; there are none. There being no further comments or questions, Buchsbaum moves to close the hearing. Seconded by Jones. Bertoni takes a roll call vote. Motion passes 4-0.

- c. **New: 42 Whitehall Circle, No DEP File # as of posting** – construction of in-ground pool, landscaping, and associated appurtenances – Michael & Naomi Goldman

Documents Reviewed: Notice of Intent application and site plans by Griffin Engineering Group, dated December 17, 2021

Pirrotta reads the legal notice. Bob Griffin of Griffin Engineering, representing the applicant, describes the proposed project for the installation of the pool and associated site work. Griffin notes that an Order of Conditions was issued for the construction of the house; a pool was originally proposed but was then removed from the project through issuance of a minor modification to the Order. Buchsbaum asks about water infiltration between the patio pavers. Squibb asks about the need for fill to be brought in. Bertoni asks about the increase in impervious area within the 50-Foot No Build Zone and for the impact table to be shown on the plan. Bertoni asks about alternatives to reducing the amount of work in the No Build Zone and information on pool drawdown. The Commission agrees that a site visit would be helpful and schedules a site visit for Saturday, January 8, 2022, at 8:00am. Bertoni opens the hearing to comments or questions from members of the public; there are none. There being no further comments or questions, Squibb moves to continue the hearing to the January 25, 2022 meeting. Seconded by Buchsbaum. Bertoni takes a roll call vote. Motion passes 4-0.

4. **Reconvene Regular Meeting**

Squibb moves to reconvene the regular meeting. Seconded by Buchsbaum. Bertoni takes a roll call vote. Motion passes 4-0.

5. **Requests for Determination of Applicability**

- a. **Cont.: 9 Melvin Avenue** – demolish an existing house – Kevin Hios

Documents Reviewed: Request for Determination of Applicability application and attachments, by Kevin Hios, dated November 1, 2021

Pirrotta reports that the applicant requested a continuation of this topic to the next regular meeting in order to provide more information as requested by the Commission. Squibb moves to continue this item to the January 25, 2022 meeting. Seconded by Buchsbaum. Bertoni takes a roll call vote. Motion passes 4-0.

- b. **New: 289 Hale Street** – conduct 5 geotechnical borings to inform future restoration – Endicott College c/o Rick Gagnon

Documents Reviewed: Request for Determination of Applicability application and plans by Foth Engineering, dated December 7, 2021

Pirrotta reads the legal notice. Benjamin Foley of Foth Engineering, representing the applicant, describes the proposed geotechnical investigation work. Foley explains that a Notice of Intent would be filed for the complete culvert repair work, but first they need to collect information to inform the design plans. Bertoni asks about the Thissell Marsh restoration project, as an Order of Conditions had been issued for this in 2008. Members discuss why the restoration project was not undertaken. Buchsbaum suggests the proponent consider a future option of daylighting the stream as part of the restoration work. Squibb recalls the stream outlet was plugged in fall of 2020 and that the stream may need clearing. Bertoni asks about how spoils from the borings would be handled, noting that the spoils should be put back in the hole or otherwise be removed from the site and not spread back on the surface. There being no further comments or questions, Squibb moves to issue a Negative 2 and 3 Determination, with the conditions as discussed. Seconded by Bertoni. Bertoni takes a roll call vote. Motion passes 4-0.

- c. **New: 6 Holding Street** – tree removal, stump grinding, and fence repair – Thomas Frost

Documents Reviewed: Request for Determination of Applicability application and plan, dated December 17, 2021

Pirrotta reads the legal notice. Owner Thomas Frost provides an overview of the proposed work. Pirrotta shares photos from her site visit and the Commission discusses whether erosion controls are needed for the stump removal. Frost describes that the contractor can do the work from the upland side of the property and does not need to cross the wetland or remove the smaller trees to complete the work. There being no further comments or questions, Jones moves to issue a Negative 3 Determination with the conditions as discussed. Seconded by Buchsbaum. Bertoni takes a roll call vote. Motion passes 4-0.

****Alden - St. Pierre arrives to the meeting****

- d. **New: 4 Chase Terrace** – construct entryway deck and complete foundation work – Arsenio Delarosa

Documents Reviewed: Request for Determination of Applicability application and plans, dated December 16, 2021

Pirrotta reads the legal notice. Owner Arsenio Delarosa is present to discuss the proposed project. Pirrotta displays the plans on screen along with photos from her site visit. Buchsbaum asks about the distance from the resource area. Delarosa says that Pirrotta informed him that the property is within the 200-Foot Riverfront Area. He explains that straw wattle would be installed and no heavy machinery would be used. Bertoni asks for clarification about the portions of work that are within the Commission's jurisdiction, as much of the work appears to be interior renovations. The Commission clarifies that the work on the porch and entry deck are applicable to the RDA, but the interior work is not subject to the Commission's review and approval. There being no further comments or questions, Alden - St. Pierre moves to issue a Negative 2 and 3 Determination, with the conditions as discussed. Seconded by Buchsbaum. Bertoni takes a roll call vote. Motion passes 5-0.

6. **Request for Certificate of Compliance**

- a. **Cont.: 181 Elliott Street, DEP File #5-558** – repave parking lot, install landscaping and lighting, grading, and remove building – Beverly Commerce Park, LLP

Documents Reviewed: Request for Certificate of Compliance, by Cummings Properties, LLC, dated November 12, 2021

Damien Savoie of Cummings Properties, representing the applicant, explains the request and the additional information that was provided, including site photos and other plans in the vicinity of the project. An as built plan was never produced for this project after the work was completed, and then subsequent projects were approved and completed in the vicinity. Savoie explains therefore that the current conditions of the site do not reflect the as built condition at the time of the project completion from ~20 years ago. Buchsbaum moves to issue a complete Certificate of Compliance, with the perpetual conditions A2 and H4. Seconded by Alden - St. Pierre. Bertoni takes a roll call vote. Motion passes 5-0.

- b. **Cont.: 181 Elliott Street, DEP File #5-609** – remove silt from pond and repair eroded bank – Beverly Commerce Park, LLP

Documents Reviewed: Request for Certificate of Compliance, by Cummings Properties, LLC, dated November 12, 2021

Damien Savoie of Cummings Properties, representing the applicant describes the request, including additional information provided. As with the above request for Certificate of Compliance, subsequent projects at the site complicated the ability to produce an as built plan showing the conditions of the site at the time, since the work was completed about 20 years ago. The Commission notes that the information and past photos provided do appear to show that the work was completed, but that present day conditions of the pond show that there is now a build of sediments again. Savoie notes that Cummings does want the sediments to be removed from the pond. Buchsbaum states that sediment is more of an aesthetics issue. Bertoni notes that the

Commission was not provided with any information regarding the location of any dredged material disposal, which was part of Special Condition #4. Savoie confirms that there is no information on this. Buchsbaum moves to issue a complete Certificate of Compliance, with perpetual conditions A2 and H4. Seconded by Alden-St. Pierre. Bertoni takes a roll call vote. Motion passes 5-0.

- c. **Cont.: 17R Webber Avenue, DEP File #5-1242** – construct new house with associated utilities, and appurtenances and removal of two abandoned structures – Jozef De Vries

Documents Reviewed: Request for Certificate of Compliance and as-built plan, by Hancock Associates, dated November 18, 2021

Devon Morse of Hancock Associates representing the applicant recaps the request and the Commission's site visit. Bertoni asks Commissioner's thoughts on closing out this project, and whether it's better to wait until after the work on the new Order for DEP File #5-1350 is complete. Morse confirms that this is a request for a partial Certificate of Compliance, but that they defer to the Commission on this decision. Pirrotta adds that some of the conditions will not be met at this point, including treatment for Japanese knotweed. Bertoni agrees that the Commission could issue a partial Certificate of Compliance now and a complete Certificate later once the work under the new Order is complete. Members discuss the portions of work that are complete and remain. Buchsbaum moves to issue a partial Certificate of Compliance. Seconded by Alden-St. Pierre. Bertoni takes a roll call vote. Motion passes 5-0.

- d. **New: 116 West Street, DEP File #5-848** –construct a single family house, driveway, and associated utilities – Daniel and Lisa Carnevale

Documents Reviewed: Request for Certificate of Compliance and as-built plan, by Griffin Engineering Group, dated December 14, 2021

Bob Griffin of Griffin Engineering Group is present to present to request, and the property owner, and the owners' attorney, Tom Alexander, are also on the call. Griffin explains the project history including the Superseding Order issued by the state DEP and the Enforcement Order that was issued related to the construction of the shed. Bertoni asks about the state Certificate of Compliance and the information that received relative to the Certificate of Compliance request per the Superseding Order. Griffin notes that they received the same documents and that the state issued the Certificate of Compliance already. Bertoni asks about diminished flood storage, as the as built plan shows a greater elevation than proposed. Owner Daniel Carnevale clarifies that beach sand was displaced onto the property during storms, and that the city, unbeknownst to him, put fill on the property as part of sewer repair work. Bertoni requests a file copy of the plan indicating the 50-Foot No Build Zone. Buchsbaum asks about the mitigation plantings. Pirrotta points out that the "grassy strip" is in an area that previously called for plantings. Squibb asks if this grass path can be replanted, per earlier mitigation planting requirements. Griffin agrees. Commissioners think that an Enforcement Order is necessary to return the 25-Foot No Disturbance Zone to its natural state; ie: the removal of the grassy strip to the brook and replanting with native shrubs. Buchsbaum moves to issue an Enforcement Order,

requiring the restoration. Seconded by Squibb. Motion passes 5-0. Buchsbaum moves to issue a complete Certificate of Compliance, with perpetual conditions #41 - 44. Seconded by Alden - St. Pierre. Bertoni takes a roll call vote. Motion passes 5-0.

7. **Old/New/Other Business**

a. **Enforcement Orders**

i. **Cont.: 0 Netherton Avenue**

Documents Reviewed: Topographic Plan of Land by Hancock Associates, dated July 14, 2021

Pirrotta updates the Commission on the current status of the restoration. The property owner has notified Pirrotta that removal work has not yet begun, but that a contractor has been selected and fill removal is expected to begin soon and that staff from Hancock Associates will observe as fill is pulled back from the wetland. Pirrotta plans to be there as well. She asks if the Commission has further suggestions on issuing a ratified Enforcement Order. Bertoni says a restoration plan should be provided soon. Squibb suggests having the plan for the February 8, 2022, meeting. Buchsbaum moves to amend the Enforcement Order to include the receipt of a restoration plan by February 1, 2022. Seconded by Bertoni. Bertoni takes a roll call vote. Motion passes 5-0.

ii. **Cont.: 82 River Street**

Documents Reviewed: Letter from DeRosa Environmental, dated November 23, 2021

Pirrotta reports that the project representative requested that this discussion be continued until the next meeting, due to a meeting conflict. Buchsbaum moves to continue until the January 25, 2022 meeting. Seconded by Alden - St. Pierre. Bertoni takes a roll call vote. Motion passes 5-0.

b. **Potential Violations, If Any**

i. **340 Old Essex Road**

Pirrotta informs the Commission about a recent Enforcement Order she issued for new work observed including fence installation and driveway installation. She has not yet received a response from the owner, but will arrange a site inspection when possible. Alden - St. Pierre moves to amend the Enforcement Order to requesting that the applicant attend the Commission's next meeting on January 25, 2022, to discuss the project and receive additional directives. Seconded by Buchsbaum. Bertoni takes a roll call vote. Motion passes 5-0.

ii. **7 Netherton Avenue**

Pirrotta updates the Commission on the status of the restoration plan and that she has not received a response from the property owner regarding the restoration that was required per the Enforcement Order. Pirrotta will follow up.

c. **Tree Removal Requests, If Any**

i. **56 West Street, Liz Gibbons**

Pirrotta describes the request for the removal of two Norway maple trees and displays photos from her site visit. Alden - St. Pierre moves to approve the removal of the trees with the standard conditions. Seconded by Buchsbaum. Bertoni takes a roll call vote. Motion passes 5-0.

ii. **17 Riverview Street, Libby Jones**

Pirrotta describes the request for the removal of four trees including three Norway maples and one black cherry tree. Pirrotta displays photos from her site visit and describes the site conditions. Commission members express concern with the removal of the trees and potential destabilization of the slope. The Commission discusses allowing the trees to sucker/regrow so that the roots would continue to hold the slope in place. Alden - St. Pierre moves to approve the removal of the trees with the standard conditions, as well as a condition for the owner to monitor stability of the slope and to report back to the Commission in two years. Seconded by Buchsbaum. Bertoni takes a roll call vote. Motion passes 5-0.

d. **Conservation Commission Officer election**

Members discuss their support for the continuation of Christine Bertoni as Chairperson of the Commission. Buchsbaum moves to re-elect Bertoni to the position of Chairperson. Seconded by Alden - St. Pierre. Motion passes 5-0.

Members discuss their support for the continuation of Robert Buchsbaum as Vice-Chairperson. Squibb moves to re-elect Buchsbaum to the position of Vice-Chairperson. Seconded by Alden - St. Pierre. Motion passes 5-0.

e. **Other: Discussion or Action Items Related to Commission Business, Correspondence, etc. Received/Issued After Publication of Agenda, If Any**

i. **Sterling YMCA single light pole installation recommendation**

Pirrotta informs the Commission that the YMCA seeks input for the installation of a new light post in the area near their newly installed sign at the property entrance, at 254 Essex Street. The Commission agrees that a minor project permit would be appropriate and recommends “dark sky” practices be incorporated.

ii. **Common Lane amphibian crossing**

Pirrotta updates the Commission on the amphibian tunnel crossing on Common Lane and that volunteers are sought for monitoring use of the tunnel. She solicits members’ interest in volunteer capacity for monitoring during the spring migration period.

f. **Expenditure Approvals, If Any**

Squibb moves to approve the \$6,000 annual administrator’s stipend. Seconded by Buchsbaum. Bertoni takes a roll call vote. Motion passes 5-0.

Buchsbaum moves to approve the expenditure of \$64.94 to the Conservation Administrator for November and December 2021 mileage accumulated for carrying out Conservation Commission business (85.4 miles for November 2021 and 58.9 miles for December 2021 at \$0.45/mile). Seconded by Squibb. Motion passes 5-0.

8. **Orders of Conditions, If Any**

a. **183 West Street, DEP File #5-1352**

Commission members recap the project and discuss the proposed conditions. Buchsbaum moves to issue an Order of Conditions for the project with the special conditions as discussed, along with the standard general and perpetual conditions, under the MA Wetlands Protection Act and Beverly Wetlands Protection Ordinance. Seconded by Squibb. Bertoni takes a roll call vote. The motion passes 4-0-1 with Alden - St. Pierre abstaining.

b. **17R Webber Avenue, DEP File #5-1350**

Commission members recap the project and discuss the proposed conditions. Buchsbaum moves to issue an Order of Conditions for the project with the special conditions as discussed, along with the standard general and perpetual conditions, under the MA Wetlands Protection Act and Beverly Wetlands Protection Ordinance. Seconded by Jones. Bertoni takes a roll call vote. The motion passes 4-0-1 with Alden - St. Pierre abstaining.

9. **Approval of Minutes (as available)**

a. **December 7, 2021**

Members offer their comments and changes to the draft minutes from the December 7, 2021 meeting. Alden - St. Pierre moves to approve the December 7, 2021 minutes as amended. Seconded by Bertoni. Bertoni takes a roll call vote. Motion passes 5-0.

10. **Adjournment**

Buchsbaum moves to adjourn at 10:30 p.m. Seconded by Squibb. Bertoni takes a roll call vote. The motion carries 5-0.

The next regular meeting of the Conservation Commission will be held on Tuesday, January 25, 2022.