

CITY OF BEVERLY
PUBLIC MEETING MINUTES

BOARD OR COMMISSION: Beverly Conservation Commission
SUBCOMMITTEE:
DATE: March 22, 2022
LOCATION: Virtual Meeting Access Only via Google Meet
MEMBERS PRESENT: Chair Christine Bertoni, Vice Chair Robert Buchsbaum,
David Alden - St. Pierre, William Squibb, Meghan Jones
MEMBERS ABSENT:
OTHERS PRESENT: Environmental Planner Jenna Pirrotta
RECORDER: Stacia Chamberlain

1. Chair Bertoni **calls the meeting to order** at 7:01 p.m. and reads the public notice regarding holding meetings remotely due to Covid-19.

2. **New: Proposed Executive Session**

Buchsbaum moves to enter executive session, pursuant to Pursuant to Massachusetts General Laws, Chapter 30A, Section 21(a)(5) (open meeting law exception regarding investigating and considering the filing of criminal complaints), to investigate and consider the filing of a criminal complaint pursuant to City of Beverly Ordinance Chapter 287, Section 9, and Massachusetts General Law, Chapter 40, Section 21D, regarding the failure to pay fines issued as the result of an Enforcement Order in response to unpermitted work by Anthony Gaglione at 5R, 7R, and 9R Netherton Avenue, Beverly, MA. Seconded by Squibb. Bertoni takes a roll call vote. Motion passes 5-0. The Commission leaves the meeting to enter executive session, noting that they will resume the regular meeting immediately after the executive session.

3. **Recess for Public Hearings**

The Commission rejoins the regular meeting and Alden - St. Pierre moves to recess for public hearings. Seconded by Squibb. Bertoni takes a roll call vote. Motion passes 5-0.

4. **Notice of Intent/Abbreviated Notices of Intent/Requests for Amended Orders of Conditions**

- a. **Cont.: 105 Sam Fonzo Drive & 10 LP Henderson Road, DEP File #5-1357** – construct commercial facility with parking, utilities, landscaping, and incidental site work – 105 Sam Fonzo Realty Trust c/o Thomas Ford

Documents Reviewed: Notice of Intent application and site plans by Engineering Alliance, Inc, dated January 18, 2022; revised plan set by Engineering Alliance, Inc, dated March 15, 2022, Wetland Replication and Mitigation Planting Plan by Rimmer Environmental, LLC, dated March 15, 2022, Drainage Calculations and Stormwater Management Plan, revised dated March 15, 2022, Tetra Tech stormwater peer review comments dated March 10, 2022, and Engineering Alliance, Inc response to peer review comments, dated March 15, 2022

Owner Thomas Ford; Mary Rimmer, of Rimmer Environmental Consulting; and Richard Salvo, of Engineering Alliance, Inc., are present to recap the project and describe the revised plans and new information. Salvo describes the new information that was submitted including updated

landscaping, elimination of the isolated wetland and addition of wetland replication, and noted that they prepared a response to the peer review comments. Rimmer describes the construction sequence relative to the wetland replication area. She describes that the Isolated Vegetated Wetland to be filled is relatively flat with invasive species and has low functional habitat quality. This wetland will be replicated with higher value wetland habitat next to Bordering Vegetated Wetland elsewhere on the site at a 1.5:1 ratio. Rimmer notes the replicated area will be excavated, clean loam added, and the area planted with a mix of native trees, shrubs, and groundcover, with wetland scientist oversight.

Buchsbaum asks about regrading required in the area of the impacted isolated wetland. Rimmer replies that it will be excavated and removed since it contains invasives, and it would be backfilled with clean material at a slightly higher elevation. Bertoni asks about the location of the replicated wetland area. Salvo describes the proposed area, noting that it was selected as that location will require the least amount of regrading. Rimmer notes that there is opportunity for invasives removal also within the larger Bordering Vegetated Wetland. She confirms that the replicated wetland will have associated jurisdictional buffers upon completion. Bertoni asks about timing of the replication, noting it is preferable to complete this in early stages of the work. Rimmer agrees that it could be a condition of the project. Ford confirms that the construction of the detention basin and wetland replication is included in the construction bid package for the first phase of the work. Bertoni asks about stormwater management during construction of the project. Rimmer says that temporary basins would be used and Salvo says that there is a Stormwater Pollution Prevention Plan in place for this project, including best management practices that would be applied. Pirrotta reports that the Engineering Department reviewed the updated materials and that they had no further comments to provide to the Commission. In response to Buchsbaum's question, Ford notes that the second stream crossing will occur concurrent with other site work. Salvo provides information on the amount of stormwater infiltration and amount and location of fill at the site, and refers the Commission to the impact area tables. Squibb asks about the test pit results and Ford reports that they found sand, as expected. Commissioners discuss what will be done with the open wells on the property; Ford replies that they will be abandoned according to established protocols. In response to Squibb's question, Ford confirmed they could keep the wells that are not covered by the building, accessible for future monitoring as needed.

Bertoni invites comments and questions from members of the public. Mike Petkavich, 60 Trask Street, would like to know how much water will run off onto abutter's properties. Salvo describes that the pitch of the land and roof runoff would be directed away from their properties into detention pond or infiltrated and that it will be an improvement over current conditions. Petkavich asks about construction of a fire road at the rear of the property and Salvo confirms. Randy Wetzel, 76 Trask Street, asks whether the project would cause a slower timing of the water levels to lower after it rains and if there will be any maintenance to the drainage pipe that was observed during the site visit. Bertoni suggests Wetzel direct this request to Ford, as no work on that pipe was proposed as part of this project, but that it would need the Commission's approval. Squibb believes he is referring to the culvert under Trask Street and Jones suggested he follow up with the Department of Public Works regarding this issue. Buchsbaum recommends native species be added for their screening vegetation if possible. Ford confirms the species were selected by the landscape architect based on resistance to deer browsing and fast growth habits.

There being no further comments or questions, Buchsbaum moves to close the hearing. Seconded by Jones. Bertoni takes a roll call vote. Motion passes 5-0.

- b. **Cont.: 3 Pilgrim Heights, DEP File #5-1360** – construct a building addition with associated appurtenances – Glen Witwicki

Documents Reviewed: Notice of Intent application dated February 14, 2022 and site plan by Griffin Engineering Group revised dated March 21, 2022

Bob Griffin of Griffin Engineering representing the applicant, summarizes the changes made to the plans since the last meeting, including addition of mitigation plantings within an area of lawn next to the bank, removal of yard waste, and addition of riprap in a depression that appears to receive overland flow. Griffin describes that the mitigation plantings and addition of the drywell will result in improved conditions. Bertoni asks about the catch basin in the street and whether that contributes to erosion on the property. Griffin does not believe this is a contributing factor. There are no comments from members of the public. There being no further questions or comments, Alden - St. Pierre moves to close the hearing. Seconded by Buchsbaum. Bertoni takes a roll call vote. Motion passes 5-0.

- c. **Cont.: 2 Thaxton Road, DEP File #5-1359** – construct an in-ground pool, patio, and landscaping – Justin & Emma Galui

Documents Reviewed: Notice of Intent application dated February 14, 2022 and site plan by Griffin Engineering Group revised dated March 21, 2022

Bob Griffin of Griffin Engineering representing the applicant, summarizes revisions to the plan since the last meeting. The homeowner coordinated with their landscape architect to minimize the intrusion of the pool in the 50-Foot No-Build Zone, and relocated the pool equipment and trellis further from the lot line. The fence was moved further away from the wetland, resulting in an additional 260 square feet of restoration from lawn to naturalized area. Bertoni appreciates the revisions and asks about the height of the fence and number of posts. Buchsbaum appreciates that the fenced was moved slightly away from the wetland and the Commission discusses the ability for continued wildlife movement based on the fencing that the owner selected.

Tina Buchs, 4 Thaxton Road, asks about lighting and light pollution. Bertoni confirms the Commission would consider impacts from lighting, however, none was proposed near the wetland. Buchs asks generally about wetland replication and is hopeful that the drywells will work to prevent water from rising at her property. Bertoni confirms that the proposed addition of impervious surface area is being offset by the proposed drywells. Griffin confirms that no wetland replication is proposed, as there is no wetland fill associated with the project and that buffer plantings are proposed. Buchsbaum confirms that 4 Thaxton Road is uphill from the proposed project. There being no further comments or questions, Alden - St. Pierre moves to close the hearing. Seconded by Buchsbaum. Bertoni takes a roll call vote. Motion passes 5-0.

- d. **Cont.: 181 Elliott Street, DEP File #5-1353** – request to amend Order of Conditions – Beverly Commerce Park, LLP

Documents Reviewed: Request to Amend the Order of Conditions and site plan by Beverly Commerce Park LLP, dated February 14, 2022

Pirrotta states the Commission received a request from the applicant to continue the hearing without discussion to the next meeting. Squibb moves to continue the hearing to the April 12, 2022 meeting. Seconded by Bertoni. Bertoni takes a roll call vote. Motion passes 5-0.

- e. **New: 4 Bridle Path Lane, DEP File #5-1361** – construct an in-ground pool, deck, and spa, with grading, utility work, and landscaping – Christine Petersen

Documents Reviewed: Notice of Intent application by DeRosa Environmental dated March 7, 2022 and site plan by Eaglebrook Engineering & Survey, LLC dated February 28, 2022

Pirrotta reads the legal notice. Evin Guvendiren of DeRosa Environmental; Ben Minnix of Eaglebrook Engineering; Matt Ulrich of Ulrich Landscape Collaborative; and owner Christine Petersen, are present to discuss the project. Guvendiren gives an overview of the proposed project and describes the locations of the wetland resource areas and their associated buffers. Guvendiren notes there will be an increase in impervious surface area associated with the project and that mitigation will be provided including installation of a rain garden with plantings and conservation of a landscaped area to a naturalized vegetated area to increase habitat value within the buffer. Utilities would be trenched and stabilized the same day and biodegradable silt sock sediment and erosion controls would be used during construction.

Buchsbaum asks about new impervious surface area and the amount of mitigation. Bertoni asks whether the pavers surrounding the pool will be impervious and how the rain garden would accommodate all of the expected stormwater. Guvendiren refers to the stormwater report included with the Notice of Intent and Minnix explains how the runoff will be infiltrated. Minnix describes location of existing ledge and how those portions of the yard were not considered pervious in their drainage calculations. Not all runoff would be directed to the rain garden and there will also be infiltration into the lawn. Buchsbaum and Bertoni would like to hold a site visit. Bertoni asks about alternatives to avoid trenching the utilities and for moving the pool closer to the house. Guvendiren replies that the placement of the pool was designed to minimize impacts and moving it closer to the house would result in more work within the No Build Zone and No Disturbance Zone. Bertoni confirms that no blasting is anticipated and clarifies that access would be required over the existing culvert. There are no comments from members of the public. Commissioners schedule a site visit for March 26, 2022 at 8 a.m. There being no further questions or comments, Buchsbaum moves to continue the hearing to the April 12, 2022 meeting. Seconded by Alden – St. Pierre. Bertoni takes a roll call vote. Motion passes 5-0.

5. **Reconvene Regular Meeting**

Buchsbaum moves to reconvene the regular meeting. Seconded by Alden - St. Pierre. Bertoni takes a roll call vote. Motion passes 5-0.

6. **Requests for Determination of Applicability**

- a. **New: 17 Columbia Road** – replace and expand an existing driveway and remove and rebuild new deck and stairs – Meghan & Michael Jones

Documents Reviewed: Request for Determination of Applicability application and associated attachments, dated March 3, 2022

Jones recuses herself from discussion as a Commissioner. Pirrotta reads the legal notice. Owner Meghan Jones, describes the proposed project including replacing the deck and stairs and paving. She explains how street runoff has led to deterioration of the pavement and she plans to expand a portion of the pavement at the driveway entrance with a 3-inch berm to minimize driveway and yard damage from the cars that turn around at the end of the street. Bertoni asks about the intent of the berm and whether there would be a change in water flow. Jones describes the location of her property and that water would still reach the same wetlands and stream. Buchsbaum asks whether pervious pavement was considered. Jones replies that she considered different alternatives and that pervious pavers are cost prohibitive. The Commission discusses proposed conditions for the project. There being no further questions or comments, Buchsbaum moves to issue a Negative 3 Determination with the conditions as discussed. Seconded by Squibb. Bertoni takes a roll call vote. Motion passes 4-0-1, with Jones abstaining.

- b. **New: 31 Wirling Drive – construct a building addition and deck** – Francis & Lori Gambone

Documents Reviewed: Request for Determination of Applicability application and site plan by Griffin Engineering Group, dated March 7, 2022

Pirrotta reads the public notice. Bob Griffin of Griffin Engineering describes the proposed project including construction of an elevated addition and deck in an area of existing lawn. Griffin confirms the work is not located within the 200-Foot Riverfront Area and that a portion of the work is located within Bordering Land Subject to Flooding, but there will be no fill or change of grade in that area. The project is not located within the 50-Foot No Build Zone. Bertoni asks how runoff would be addressed. Griffin describes that crushed stone would be added beneath the deck and water would infiltrate into the ground as it does today. Griffin suggests that gutters could be directed to the stone under the addition. Squibb asks which direction the roof line is oriented. Bertoni says that the runoff from the addition should not be directed toward the street. Commissioners discuss the proposed conditions for the project and Bertoni requests that Pirrotta hold a pre-construction site visit. There being no further questions or comments, Buchsbaum moves to issue a Negative 2 and 3 Determination, with the conditions as discussed. Seconded by Alden - St. Pierre. Bertoni takes a roll call vote. Motion passes 5-0.

7. **Requests for Certificates of Compliance**

- a. **New: 50 Dunham Road, DEP File #5-1202** – relocate existing roadway, remove trees, and associated grading and stormwater BMPs – Dunham Ridge, LLC c/o Damien Savoie

Documents Reviewed: Request for Certificate of Compliance by Cummings Properties, LLC dated March 7, 2022 and as built plan by Alan Engineering, LLC, dated February, 28 2022

Damien Savoie and Steve Drohosky, on behalf of Cummings Properties, LLC representing the applicant are present to request the Commission issue a Certificate of Compliance to close out the project. Savoie notes the project was approved in 2016 and a Minor Modification was issued

in 2017. Bertoni asks if there were any deviations from the approved plans. Savoie replies that the grade of the roadway is approximately 2 feet lower than approved. He explains that this eliminated the need for a riprap slope as previously proposed, since the natural grade serves as a berm. Pirrotta confirms she held a site visit with the applicant and describes the conditions of the property including remnant asphalt and sediment controls. Bertoni requests that they remove the debris on the site. Buchsbaum asks about what was planted in the area of the removed asphalt. Savoie describes the conservation seed mix that was spread. Drohosky agrees they will do their best to remove notable chunks of asphalt debris and sediment controls and confirm with Pirrotta. There being no further comments or questions, Buchsbaum moves to issue a Complete Certificate of Compliance with Perpetual Conditions 37-41, and Special Condition 8. Seconded by Squibb. Bertoni takes a roll call vote. Motion passes 5-0.

8. **Old/New/Other Business**

a. **Enforcement Orders**

i. **Cont.: 62 South Terrace**

Documents Reviewed: Enforcement Order dated September 1, 2021, extension request letter, dated March 4, 2022

Bob Griffin of Griffin Engineering, representing the owners, recaps the restoration plan and directives in the Enforcement Order and describes the owners' efforts towards completion and regaining compliance with the expired Order of Conditions. The owners are asking for an extension of time to complete the work and layout a schedule of completion. Griffin clarifies that salt marsh grasses will not be planted per the original plan, as they are unlikely to be successful in a cobble location such as this, as observed at the Commission's previous site visit. Buchsbaum moves to amend the Enforcement Order to extend the date for completion of the restoration plan until June 15, 2022. Seconded by Squibb. Bertoni takes a roll call vote. Motion passes 5-0.

b. **Potential Violations, If Any**

i. **344 Old Essex Road**

Pirrotta updates the Commission on this property regarding the storage of vehicles and collapsing garage that was observed at the Commission's site visit at the adjacent property. Pirrotta states she spoke with the Beverly Traffic Sergeant that the broken vehicles have been removed and that the garage has collapsed, adding that has been trying to reach the property owner to discuss with them their intention of removal of the dilapidated garage. Commissioners discuss which City entity might be responsible for enforcing this. Bertoni asks Pirrotta to alert the Building Inspector with their recommendations. Buchsbaum thinks that this effort should be led by the Building Inspector rather than the Commission.

c. **New: Discussion on updated guidance on holding remote and hybrid meetings**

Pirrotta updates the Commissioners on the latest state policies for holding meetings. Members decide that they will continue conducting virtual meetings for the time being, as they all believe that hybrid meetings are too complicated and inefficient.

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

i. Buchsbaum asks if the Commission will have a new member soon. Pirrotta updates the

Commissioners that Mayor Cahill has put forth a recommendation to the City Council for appointment to the Commission.

ii. Tonight is Alden - St. Pierre's last meeting as he is resigning from the Commission. The Commission thanks him for his contributions and looks forward to continuing to work with him in his ongoing capacity as chair of the Open Space and Recreation Committee.

iii. Pirrotta received an email from a concerned citizen reporting that at the Beverly Commons there is a vernal pool within the trail itself which was disturbed.

iv. There was a report of paintball activity at Norwood Pond. Pirrotta is coordinating with Beverly Police on enforcement concerns. Alden - St. Pierre suggests adding signage at the pond noting that this activity is prohibited there.

9. Orders of Conditions

i. **105 Sam Fonzo Drive & 10 LP Henderson Road, DEP File #5-1357**

The Commission recaps the project and discusses the issuance of an Order of Conditions for the project. Alden – St. Pierre moves to issue an Order of Conditions under the MA Wetlands Protection Act and Beverly Wetlands Protection Ordinance with the special conditions as discussed and the standard general and perpetual conditions. Seconded by Jones. Bertoni takes a roll call vote. Motion passes 5-0.

ii. **3 Pilgrim Heights, DEP File #5-1360**

The Commission recaps the project and discusses the issuance of an Order of Conditions for the project. Alden – St. Pierre moves to issue an Order of Conditions under the MA Wetlands Protection Act and Beverly Wetlands Protection Ordinance with the special conditions as discussed and the standard general and perpetual conditions. Seconded by Buchsbaum. Bertoni takes a roll call vote. Motion passes 5-0.

iii. **2 Thaxton Road, DEP File #5-1359**

The Commission recaps the project and discusses the issuance of an Order of Conditions for the project. Alden – St. Pierre moves to issue an Order of Conditions under the MA Wetlands Protection Act and Beverly Wetlands Protection Ordinance with the special conditions as discussed and the standard general and perpetual conditions. Seconded by Jones. Bertoni takes a roll call vote. Motion passes 5-0.

10. Approval of Minutes (as available)

There are no minutes currently available for review.

11. Adjournment

Alden - St. Pierre moves to adjourn at 10:28 p.m. Seconded by Bertoni. Bertoni takes a roll call vote. The motion carries 5-0.

The next regular meeting of the Conservation Commission is scheduled for Tuesday, April 12, 2022.