

CITY OF BEVERLY
PUBLIC MEETING MINUTES

BOARD OR COMMISSION: Beverly Conservation Commission
SUBCOMMITTEE:
DATE: July 12, 2022
LOCATION: Virtual Meeting Access Only via Google Meet
MEMBERS PRESENT: Chair Christine Bertoni, Vice Chair Robert Buchsbaum,
William Squibb, Meghan Jones, Amber Redmond
MEMBERS ABSENT:
OTHERS PRESENT: Environmental Planner Jenna Pirrotta
RECORDER: Jenna Pirrotta

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.

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. **New: Proposed Eagle Scout projects**

Sebastian (Sebby) Brouillette of Beverly Scouts Troop 4 and his mother are present to describe Brouillette's proposed trail improvements at Beverly Commons as part of his Eagle Scout project. Bertoni asks Brouillette to provide an overview of his project. Brouillette describes that he would like to blaze the existing "Blue" trail and to build a bench. This would help the City by making the trail more visible so that trail users do not get lost, since some of the nailed-on trail markers have been going missing. Bertoni asks about how many trees would be marked and what guidelines he is following for the blazes. Brouillette would paint a blotch every so many feet, using a stencil. Buchsbaum suggests there are similar blazes at Sally Milligan Park that could be referenced. Bertoni asks for a more generic marking, to dissuade tagging or vandalism and that overall it sounds like a great project. Buchsbaum confirms that portions of the trail are located on Essex County Greenbelt property and Brouillette confirms he is also coordinating with them on the blazing project and permission for working on portions of their land. Pirrotta notes that she will be walking the trail the next day with Brouillette, and Open Space and Recreation Committee and Greenbelt representatives. Bertoni and Brouillette discuss providing Pirrotta with more information on the project including blazing guidelines that will be used and that pending final details, Pirrotta can submit a letter of support on behalf of the Commission. Redmond moves to issue a letter of support pending more information as discussed. Seconded by Buchsbaum. Bertoni takes a roll call vote. Motion passes 5-0.

4. **Recess for Public Hearings**

Buchsbaum moves to recess for public hearings. Seconded by Jones. Motion passes 5-0.

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

- a. **Cont.: 973 Hale Street, DEP File #5-1370** – construct single family home with associated appurtenances and construct garage addition to existing carriage house – Joan Mullen

Documents Reviewed: Notice of Intent application by Rimmer Environmental Consulting, dated May 31, 2022 and plans by D.C. MacRitchie, LLC dated May 31, 2022

Mary Rimmer of Rimmer Environmental Consulting is present to discuss the proposed project. She describes that since the last meeting, a DEP file number was issued and that Mass DEP provided comments to the Commission. Rimmer recaps the DEP comments and responds that the proposed work is not within 200-Foot Riverfront Area, but that the plan view can be expanded to show where the Riverfront Area is located to confirm this. She reflects that the owner would also be willing to entertain review of the unpermitted work on the property through an Enforcement Order, as recommended by DEP. Rimmer recaps that the Commission observed the unpermitted work at their June 25, 2022 site visit and that the owner would like to keep part of the unpermitted deck near the marsh if possible.

Rimmer also describes some minor revisions that are expected to be made to the plan and presented to the Commission at the following meeting. Changes would include eliminating a bump out and shifting the location of the garage to the carriage house, and changing the angle of the new house to preserve additional trees.

Buchsbaum asks about the extent of the wetlands beneath the unpermitted deck. Rimmer believes that based on topographic contours it is about 6 feet, and suggests that a condition of removal could be that it is done in stages and inspected by the Conservation Agent. Buchsbaum suggests that if the owner were proposing a new deck in or next to the marsh, that the Commission would not approve it, since it is in the marsh and the 25-Foot No Disturbance Zone, so it could be argued that all of the unpermitted deck should be removed. Bertoni agrees that if it were newly proposed, she is unsure that it would be approved, but that the Commission does approve construction of similar structures such as boardwalks and piers, with conditions. Bertoni believes an Enforcement Order would be appropriate, with receipt of information from the applicant on alternatives such as no removal, partial removal, and complete removal. Squibb believes that complete removal could be more damaging to the resource areas. Buchsbaum and Bertoni agree that an Enforcement Order for the review of the unpermitted work would be the best approach and that the applicant should come back to the Commission with a plan for them to evaluate. There are no members of the public with comments or questions.

Buchsbaum moves to issue an Enforcement Order to review the unpermitted activities to include receipt of a restoration plan by August 16, 2022. Seconded by Squibb. Bertoni takes a roll call vote. Motion passes 5-0. There being no further questions or comments, Buchsbaum moves to continue the hearing to the August 2, 2022 meeting. Seconded by Squibb. Bertoni takes a roll call vote. Motion passes 5-0.

- b. **New: 38 Lothrop Street, No DEP File # as of posting** – construct attached garage addition – Goldberg Properties Management c/o Steven Goldberg

Documents Reviewed: Notice of Intent application by DeRosa Environmental Consulting, dated June 27, 2022 and plans by The Morin-Cameron Group dated June 22, 2022

Pirrotta reads the legal notice. Evin Guvendiren of DeRosa Environmental Consulting, representing the applicant, is present to discuss the proposed project. She notes that after the agenda was posted, a DEP file number was issued, and that there were no DEP comments on the portal. Guvendiren provides an overview of the proposed garage addition project and describes the wetland resource areas including a depression at the rear of the property that serves as an Isolated Vegetated Wetland. The wetland type is incorrectly labeled on the plan and Guvendiren reports that she will provide an updated copy of the plan for the file. Guvendiren describes the slope of the rear property, the use of biodegradable silt sock erosion controls, and a minor increase in the amount of paved surface area. She notes that the 2013 state GIS mapping indicates that there is a potential vernal pool within the wetland, but that DeRosa Environmental performed a vernal pool investigation on two occasions and did not identify any signs of vernal pool activity. Guvendiren cannot confirm that the wetland contains a vernal pool. Buchsbaum asks whether the project is being reviewed under the local Ordinance only, or also the state Wetlands Protection Act. Guvendiren confirms that the wetland is greater than 5,000 square feet, so this project is also applicable to the state Wetlands Protection Regulations and has also been submitted to Mass DEP. Bertoni confirms that the Commission protects vernal pools under the local Ordinance and asks whether any pool was identified. Guvendiren confirms no pool or vernal pool organisms were identified during the year when other local pools were active. The wetland is therefore shown on the plan with a 100-Foot Buffer and not a 100-Foot No Disturbance Zone. Buchsbaum doubts the area would contain a vernal pool given its urban location and would be surprised if there were any vernal pool organisms presents. He notes that the potential vernal pool GIS layer is typically created based on topography only. Bertoni asks about the increase in impervious surface area and Guvendiren reports an increase of 153 square feet. Bertoni asks for confirmation that the stone infiltration trench is adequate for the runoff. Squibb asks how the wetland is fed and Guvendiren notes that it is primarily from runoff from the surrounding areas.

Bertoni invites comments and questions from the public; there are none. There being no further questions or comments, Redmond moves to close the hearing. Seconded by Buchsbaum. Bertoni takes a roll call vote. Motion passes 5-0.

6. **Reconvene Regular Meeting**

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

Bertoni entertains taking the request for Certificate of Compliance for 973 Hale Street, DEP File #5-1032 out of order, to accommodate the consultant, who was to leave the meeting soon. Members agree.

7. **Requests for Certificates of Compliance**

- b. **Cont.: 973 Hale Street, DEP File #5-1032** –abandonment of cesspool, connection to City sewer system, debris removal, installation of hot tub, and associated appurtenances – Joan Mullen

Documents Reviewed: Documents Reviewed: Request for Certificate of Compliance with associated attachments by Rimmer Environmental Consulting, dated May 31, 2022, and as built plan by D.C. MacRitchie, LLC dated May 31, 2022

Mary Rimmer of Rimmer Environmental Consulting is present to discuss the request. She recaps the discussion at the previous meeting and summarizes the completed work, including that the cesspool was abandoned and records regarding the installation and field notes from the Conservation Agent during construction are in the file. The Commission held a site visit relative to the request for Certificate of Compliance and the Notice of Intent reviewed earlier on the agenda. Bertoni confirms with Rimmer that the septic was abandoned per Title 5 requirements. Pirrotta confirms that the debris piles were removed from the area near wetland “A,” per special condition #2. There being no further questions, Redmond moves to issue a complete Certificate of Compliance under the Act and Ordinance, with the perpetual conditions as discussed. Seconded by Buchsbaum. Bertoni takes a roll call vote. Motion passes 5-0.

8. **Requests for Determination of Applicability**

- a. **New: 63 Corning Street** – construct a mudroom addition – Brian Bishop

Documents Reviewed: Request for Determination of Applicability with associated attachments, dated June 27, 2022

Pirrotta reads the legal notice. Owners Brian and Heather Bishop are present to discuss the proposed project. Bishop describes the proposed construction of a 200 square foot mudroom addition at the home they have lived in for four years. He notes that the wetland was delineated by Rimmer Environmental Consulting and the plan was prepared by Griffin Engineering. Bishop is an architect by trade and designed the addition himself and will also be constructing the project. The addition would be supported by concrete piers, with no significant digging required. Stairs would be built at the front and back of the addition and construction access would be from the existing driveway. The Bishops explain their desire to add pollinator friendly plantings. Buchsbaum asks about the construction of the mudroom and Bishop explains it acts as a vestibule to the house and that there is no plumbing at that structure. Bertoni asks about runoff and Bishop describes that gutters would tie into the existing house drainage system. Members discuss potential conditions for the project. There being no further questions, Buchsbaum moves to issue a Negative 3 Determination under the Act and Ordinance, with conditions as described. Seconded by Redmond. Bertoni takes a roll call vote. Motion passes 5-0.

9. **Requests for Certificates of Compliance**

- a. **Cont.: Various Streets - North Beverly Brook Drainage Project, DEP File #5-968**
– City of Beverly

Documents Reviewed: Request for Certificate of Compliance with associated attachments by Fuss & O'Neill, dated June 7, 2022

April Dorosky of Fuss & O'Neill representing the applicant, is present to discuss the request and the additional information from Mass DEP. She recaps the completed work which was done on March 22, 2010 and that at the June 14, 2022 meeting, the Commission asked for information on whether Mass DEP was also issuing a partial Certificate of Compliance for the work, as there is a Superseding Order of Conditions for this project. The City is now needing to clean the culvert system again, so they are requesting a partial Certificate of Compliance to close out only the overlapping portions of the project from the old Order and the new Order of Conditions that was recently issued (DEP File #5- 1365). Dorosky reports that DEP issued the partial on June 28, 2022. Buchsbaum moves to issue a partial Certificate of Compliance under the Ordinance for the portions of work on the culvert cleaning activities in the area between Cabot Street and Shoe Pond. Seconded by Redmond. Bertoni takes a roll call vote. Motion passes 5-0.

- c. **New: 14 Bay View Avenue, DEP File #5-1183** – remove trees, replant, and install stone rip rap coastal bank stabilization – Kevin Puopolo

Documents Reviewed: Request for Certificate of Compliance with associated attachments by Hancock Associates, dated July 7, 2022

Devon Morse of Hancock Associates representing the applicant describes that she held a site visit with Pirrotta earlier that day, but that she is requesting the Commission continue this request to the next meeting. There are some details that need to be worked out with the applicant and project engineer. Buchsbaum moves to continue the request to the August 2, 2022 meeting. Seconded by Squibb. Bertoni takes a roll call vote. Motion passes 5-0.

10. **Old/New/Other Business**

- a. **Tree Removal Requests, If Any**

29 Ober Street

Pirrotta describes that the Commission received a tree removal request on 7/6/22 for the removal of a 30-inch sycamore maple that is reported by the arborist to have significant canker and decay, as well as vines weighing on it. Construction is ongoing at the property, under the Order of Conditions, DEP File #5-1308. The rear yard will undergo a re-landscaping as part of the house replacement and pool installation in a later phase of the project. The tree is located at the edge of bank and LSCSF, in lawn and is proposed to be removed via crane. Buchsbaum notes that sycamore maple trees are on the invasive list. Jones moves to approve the request with the implementation of the standard tree removal conditions. Seconded by Buchsbaum. Bertoni takes a roll call vote. Motion passes 5-0.

- b. **Cont.: West Beach Corporation & other owners along West Beach, Priority Habitat beach raking**

The Commission recaps previous discussion on the topic of beach raking at West Beach within designated Priority Habitat. Pirrotta reminds the Commission that at the previous meeting, the Commission continued this discussion in the interest of time due to the lateness of the meeting. Bertoni recalls that a beach management plan should be created by West Beach Corporation and that discussion are also being initiated within City departments to create a management plan for City beaches. Buchsbaum states that he disagrees with comments by West Beach Corporation's attorney that creating a beach management plan would be too expensive. Buchsbaum recalls that the Mass Natural Heritage and Endangered Species Program (NHESP) recommends the entity doing the work should file a Notice of Intent, including a beach management plan, and that the Commission would include conditions of approval, in coordinate with NHESP's review of the Notice of Intent. Buchsbaum believes it's an exaggeration that it's too expensive and that a beach management plan should be in place regardless of the Priority Habitat designation and that the Commission does have jurisdiction over this activity. Bertoni agrees that a Notice of Intent should be filed including a beach management plan. She notes that this information was already provided to West Beach Corporation and the next two abutters in the letter issued by Pirrotta on December 17, 2021. The Commission asks that Pirrotta send another letter to the Corporation with this information to also recommend that they coordinate with Mass Coastal Zone Management and NHESP, as NHESP has a role in assisting applicants with this issue. Buchsbaum recalls previous discussion by West Beach Corporation that the presence of the seaweed on the beach is a health issue. He believes this is more of an aesthetic concern. Bertoni opines that some invasive seaweed accumulate and dried up airborne particles can present health concerns. Buchsbaum offered to contact Salem Sound Coastwatch regarding potential water quality monitoring at West Beach to see if there is any data to suggest that there is a water quality or health issue. Buchsbaum notes that a beach management plan would not prevent the removal of wrack, but that perhaps some areas of wrack should left to serve as habitat. Buchsbaum moves that the Commission send a letter to West Beach Corporation with the recommendations as discussed and copy Mass CZM and NHESP. Seconded by Redmond. Bertoni takes a roll call vote. Motion passes 5-0.

c. New: Draft Open Space and Recreation Plan status update

Victoria Healey is the new Associate Planner in the Planning Department, staffing the Open Space and Recreation Committee. She provides an update on completion of the Open Space and Recreation Plan, which will be finalized by August 2022. She is seeking feedback from the Commission on portions of the draft, in particular Chapter 7 on Analysis of Needs – the priority projects by ward and Chapter 9 – the Seven Year Action Plan. The Commission offers feedback on the chapters including highlighting the issue of rights of way that are blocked, noting the Council on Aging Open Space walks as an outreach opportunity, and focusing on Integrated Pest Management rather than blanket disapproval of herbicides. The Commission also emphasized the use of greenscaping initiatives instead of lawn management. Buchsbaum suggests that the discussion on extension of trails describe the need for avoiding sensitive habitats. Healey expects to have the complete draft soon and will be back to the Commission seeking a letter of support.

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

Pirrotta reports that the Commission received letters after the agenda was posted. These include a Notice of Availability letter on July 12, 2012 regarding May 2022 Groundwater, Surface Water,

and Drilling Sampling Results, at the Former Varian Facility Site, 150 Sohier Road, Beverly, Massachusetts, MADEP Site #3-0485; and a Courtesy Notification Letter from National Grid on July 12, 2022 for utility maintenance work on Lyman and Ames Streets. Pirrotta will file these.

e. Expenditure Approvals, If Any

The Commission reviews expenditures for the Commission's Wetland Ordinance account. Redmond moves to pay the amount of \$145.22 to the Conservation Agent for the 322.7 miles accumulated in the months of April, May, and June 2022, at .45/mile. Seconded by Buchsbaum. Bertoni takes a roll call vote. Motion passes 5-0.

Squibb moves to pay the amount of \$673 for Massachusetts Association of Conservation Commission (MACC) annual dues for members, staff, and e-handbook subscriptions. Seconded by Bertoni. Bertoni takes a roll call vote. Motion passes 5-0.

Redmond moves to pay the amount of \$20 for Massachusetts Municipal Conservation Professional annual dues. Seconded by Buchsbaum. Bertoni takes a roll call vote. Motion passes 5-0.

11. Orders of Conditions

i. 38 Lothrop Street, DEP File #5-1371

Commissioners recap the project and discuss the issuance of the Order of Conditions for this project. Redmond moves to issue an Order of Conditions under the MA Wetlands Protection Act and Beverly Wetland Protection Ordinance with the special conditions and standard general and perpetual conditions, as discussed. Seconded by Buchsbaum. Bertoni takes a roll call vote. Motion passes 5-0.

12. Approval of Minutes (as available)

a. May 3, 2022

Members review and offer edits to the draft meeting minutes. Redmond moves to approve the minutes of the May 3, 2022 meeting, as amended. Seconded by Squibb. Bertoni takes a roll call vote. The motion carries 5-0.

b. May 24, 2022

Members review and offer edits to the draft meeting minutes. Buchsbaum moves to approve the minutes of the May 24, 2022 meeting, as amended. Seconded by Redmond. Bertoni takes a roll call vote. The motion carries 5-0.

13. Adjournment

Redmond moves to adjourn the meeting at 9:35 p.m. Seconded by Buchsbaum. Bertoni takes a roll call vote. The motion carries 5-0.

The next regular meeting of the Conservation Commission is scheduled for Tuesday, August 2, 2022.