

CITY OF BEVERLY  
PUBLIC MEETING MINUTES

BOARD OR COMMISSION: City of Beverly Conservation Commission  
DATE: July 18, 2023  
LOCATION: Virtual via Google Meet  
MEMBERS PRESENT: Vice Chair Robert Buchsbaum, Amber Redmond,  
William Squibb, Tara Duffy  
MEMBERS ABSENT: Chair Christine Bertoni, Grace Charles  
OTHERS PRESENT: Conservation Agent David Spidaliere, Conservation Field  
Inspector Scott White  
RECORDER: Naomi Moca

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1. Vice Chair Buchsbaum calls the meeting to order at 7:00 p.m. and reads the public notice regarding holding meetings remotely due to COVID-19.

Redmond: Motion to recess. Duffy seconds. Buchsbaum takes a roll call vote. Motion carries (4-0).

**2. Recess for Public Hearings**

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

a. **Cont.: 68 Paine Avenue, DEP File #5-1390** – repair a seawall – Christopher Velonis

Property owner Christopher Velonis is present and states that the stairs in the Right-of-Way will not be part of the application. Velonis states that he and the neighbors who share the right-of-way have organized a plan for that portion of the project. Jesse Blanchette of Griffin Engineering is present and states that the applicant is requesting to continue to the August 8, 2023 meeting.

Squibb: Motion to continue the hearing to the July 18, 2023 meeting as requested.  
Redmond seconds. Buchsbaum takes a roll call vote. Motion carries (4-0).

b. **Cont.: 134 McKay Street, DEP File #5-1398** – regrade Fairway #18, reconstruct the wooden deck bridge, reconfigure the paved cart path, and construct a retaining wall – City of Beverly

Susan McArthur of McArthur Environmental Consulting, project manager Joseph White of BSC Group, and Arthur Athanas and Steve Murphy of the Beverly Golf and Tennis Commission are present. McArthur summarizes that the project's purpose is to improve drainage in the area of Hole #18. The Commission conducted a site walk since the last meeting. McArthur summarizes the answers in response to the Commission's questions from the previous meeting, stating that

the DEP has no further comments, that the cuts will more than compensate for the fill in the area and thus will negate the need for bringing in additional fill, and that the invasive species Multiflora Rose will be removed in its entirety when the area is excavated for grading. The Beverly Golf and Tennis Club will cut any possible regrowth and not use herbicides.

The Commission discusses the temporary impact on the BVW. White shows the three mitigation areas on the site map. The areas of disturbance are a portion of the fairway that will be raised in elevation (4,875 square feet total disturbed area) and a small area inside the wetland flagging (bringing the total disturbed area to 4,999 square feet). White states that a mitigation area will be constructed adjacent to the BVW within the Riverfront area which will be seeded with a wetland seed mix and planted with native woody vegetation. The project will provide a net increase in the flood storage capacity within the project limits by approximately 2,182 cubic feet. White states that the ratio of mitigation area to disturbed area in the wetland is slightly less than 1:1.

Redmond: Motion to close the hearing. Duffy seconds. Buchsbaum takes a roll call vote. Motion carries (4-0).

- a. **Cont.: 7 Cherry Street, DEP File #5-1399** – construct a garage, yard storage, mudroom, covered porch, driveway, second story dormers, and deck repairs – John and Vanesa Linkletter

Spidaliere states that the applicant requested to continue the hearing to the August 8, 2023 meeting.

Redmond: Motion to continue the hearing to the August 8, 2023 meeting. Squibb seconds. Buchsbaum takes a roll call vote. Motion carries (4-0).

Redmond: Motion to reconvene the regular meeting. Squibb seconds. Buchsbaum takes a roll call vote. Motion carries (4-0).

#### **4. Reconvene Regular Meeting**

#### **5. Requests for Determination of Applicability**

- a. **New: 40 Taft Avenue** – remove and fill in-ground pool – Joe Palazola

Spidaliere reads the legal notice. Patrick Reardon of Reardon's Wrecking is present on behalf of the applicant. Reardon states that the project follows State regulations for removing the pool, which entails removing the sides and filling the area with natural fill. The work falls within the buffer zone of the BVW. The Commission discusses that there will be a decrease in impervious surface. Reardon states that the backhoe will use a single track in and out to access the pool, on the right side of the house, and deposit the materials into the trailer for removal. The driveway will be the staging area for the fill, provided by Woods Trucking in Peabody or Miles River in Peabody, and the fill will be compatible with what already exists there. The clean fill is natural

and not engineered, with debris already filtered out. Reardon states that there will be screened loam and the pool is in the center of the lawn. Reardon states that he presumes the applicant will plant grass seed but that he has not been contracted to plant anything.

The Commission discusses the following conditions and Reardon agrees to comply with them.

1. During the work, any storage of equipment shall be located on existing paved areas or as close to the street as possible.
2. Prior to any work occurring, staked sediment controls shall be installed between the pool work area and the wetland resource area and shall remain in place for the duration of the work and until final site stabilization.
3. After work completion, any disturbed soils shall be seeded and stabilized to avoid sedimentation into the resource areas.
4. If dewatering is necessary prior to the demolition of the pool, the water shall be pumped out of the pool and directed at the street side of the house, preferably over the front yard to allow for infiltration.

Squibb: Motion to issue Negative 3 determination. Redmond seconds. Buchsbaum takes a roll call vote. Motion carries (4-0).

## 6. Requests for Certificates of Compliance

- a. **New: 1 Water Street, DEP File #5-1277** – demolish an existing, underutilized, and vacant former fast food building and associated gravel/asphalt parking lot, and construct a high-end waterfront restaurant, as well as an updated parking lot, stormwater management, landscaping, and improved pedestrian walkway and waterfront promenade – Martin A. Bloom

Jarret Bastys of the Morin-Cameron Group is present on behalf of the applicant and states that the project was built in conformance with the plans with a few deviations. The Commission discusses that some of the plantings were not done. Bastys clarifies that the two growing seasons have not yet passed. Spidaliere states that a few areas in the parking lot were not planted as per the approved plan and that the planting bed in the back of the restaurant in the approved plan was reduced in size and benches were added instead. Bastys explains that some of the planned landscaped islands in the parking lot were replaced with pavement to allow for snowplow and emergency vehicle access.

The Commission discusses that it is preferable to not issue the COC than to issue a partial COC at this time because there are no pressing matters that will be resolved with a partial COC. The Commission discusses that the primary reason for not being able to issue the COC is that two growing seasons have not passed and that it is reasonable to continue the COC until the applicant returns with a plan with additional plantings to meet the total area that was agreed upon. Bastys agrees to submit a plan with more plantings along the side of the boat house and along the edges of the parking area. The Commission discusses that landscaped areas in the ground are preferable to raised planters due to being more likely to be perennial plants and more likely to survive multiple growing seasons.

Redmond: Motion to continue to the August 8, 2023 meeting. Squibb seconds.  
Buchsbaum takes a roll call vote. Motion carries (4-0).

- b. New: 8 Ryan Place (f.k.a. 71 Shortell Avenue), DEP File #5-1288** – demolish an existing dwelling and construct a new single-family residence with associated deck, patio, retaining walls, driveway, utilities, stormwater management features, and landscaping – Cabot Company Homes, Inc c/o Michael Hubbard

Jesse Blanchette of Griffin Engineering is present and states that the project is complete and the site is stable. Blanchette states that the Clethra mitigation plantings were installed along the east and west boundaries and five mitigation trees were installed. Blanchette states that one deviation from the as-built is that the residence was raised up four feet due to additional ledge, which required that a tiered retaining wall be built along the rear of the building. A second deviation is that the retaining wall made it necessary to shift a stormwater infiltration field. The applicant provided the updated design to the Commission. A six-foot tall privacy fence was installed along the westerly side of the boundary. There was found to not be enough space on the east of the garage adjacent to the house for the mitigation tree to be planted, so it was planted on the west side instead.

Spidaliere states that at his site visit he observed that the site is stable and that the grass is in the process of establishing. The Commission discusses that there was no survivorship requirement in the Order of Conditions issued in 2020. The Commission discusses that the new owners are encouraged to continue to water the grass so that it will be further established.

Redmond: Motion to issue a complete Certificate of Compliance for 8 Ryan Place.  
Squibb seconds. Buchsbaum takes a roll call vote. Motion carries (4-0).

- c. New: 7 Juniper Valley Court, DEPO File #5-1295** – improvements to an existing garage, deck reconstruction, hardscape and landscape improvements, native plantings, site grading and placement of boulders – Alexander and Emily Kontos

Evin Guvendiren of DeRosa Environmental is present on behalf of the applicant and states that the project was to do site improvements at a single-family house, including raising the deck, shifting the garage, installing a pea stone patio with slight grading, and hardscaping at the front of the property. Guvendiren shares the approved site plan under the Order of Conditions. Guvendiren confirms the 75% mitigation planting survivorship.

Guvendiren states that the deviations to the approved plan are as follows: the downspout outfall was not installed, a wood-and-wire fence along the rear was installed for safety, granite edging to keep the pea stone in place was installed, dry-laid granite steppingstones on the lawn were installed, and granite steppingstones were installed with mulching in between. Guvendiren notes that the area where the mulched granite steppingstones were installed remains pervious and that there are no signs of erosion.

Guvendiren states that three permanent conservation posts were installed at each property line and one in the center. Guvendiren shares pictures of the placards, the granite steps, the wire and wood railing, the granite edging, the steppingstones, the landscaping in the front of the house, the deck that was re-installed with the spiral staircase, the mitigation planting area, and the pea stone patio.

The Commission discusses that the mitigation area is missing from the as-built plan and that Little Bluestem and Butterfly Weed are appropriate for the mitigation planting. Guvendiren states that she will add the mitigation to the as-built plan and send it to Spidaliere. The Commission discusses that in lieu of a downspout, the water is diverted via a gutter to an underground pipe underneath the mulched area. Guvendiren states that there is runoff drainage on all corners of the house. Spidaliere confirms that at the site visit, he observed that the site is stable.

Redmond: Motion to issue a Certificate of Compliance for 7 Juniper Valley Court.  
Squibb seconds. Buchsbaum takes a roll call vote. Motion carries (4-0).

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

### **a. Extension to Orders of Condition**

#### **i. New Hickory Hill Way, DEP File #5-1237**

Jesse Blanchette of Griffin Engineering is present and requests a one-year extension because there is outstanding work remaining in the vicinity of Wetland E, which is the completion of approximately 250 feet of roadway. The granite curbing has been ordered and is due to be installed in September 2023 and then the roadway will be installed at that time. Blanchette states that the rock slope retaining wall has been in place for several years and is stable. Blanchette states that the guard rail and sidewalks have not yet been installed. A one-year extension will allow the applicant to finalize the landscaping in the Spring of 2024.

Squibb: Motion to grant a one-year extension for New Hickory Hill Way until August 2024. Duffy seconds. Buchsbaum takes a roll call vote. Motion carries (4-0).

### **b. Enforcement Matters**

#### **i. Cont.: 25 Linden Avenue - Leslie Salter**

Property owner Steve Slocomb is present and states that the work will be conducted over the weekend of July 22, 2023 - July 24, 2023. The work entails the removal of the invasive species: Asiatic Bittersweet, European Buckthorn, Japanese Barberry, Japanese Knotweed, European Smoketree, and Spreading Cotoneaster. Slocomb states that a botanist from Essex Horticulture will identify and mark the invasives, and Banks Landscaping and Construction will follow with hand removal.

The Commission discusses that Slocomb will provide a report on the progress in time for the August 8, 2023 meeting and that an amended Enforcement Order will be issued.

Squibb: Motion to amend the Enforcement Order as discussed. Redmond seconds.  
Buchsbaum takes a roll call vote. Motion carries (4-0).

**ii. Cont.: 12 Museum Road – Elaine Crowley**

Spidaliere summarizes that he received the requested photo documentation of the plantings that were planned and forwarded them to the Commission members. Due to Special Condition #4 relating to monitoring, it is not possible to close the Enforcement Order at this time.

**iii. Cont.: 16 Branch Lane – 16 Branch Lane LLC**

Ecologist Alex Patterson and Project Manager Frank Postma of EA Engineering are present. Patterson states that the contractor has applied seed mix in the cleared area and intends to procure and install some woody plantings that were prescribed in the restoration plan. The Commission discusses proposing alternative plantings to the contractor since some of the plantings were not available.

Patterson expresses concern about planting outside of the planting windows of April 15 through June 15 and September 1 through November 1. The Commission discusses that the list of plantings was provided. Postma states that he spoke with the residence's Operations Manager, Bill Schneider, who told him that the contractor has brought a rig onto the site and that the installation of the trees will begin tomorrow. Postma requests that Scott White visit the site next week and states that the expectation for the work to be completed by now has not been met. The site is not ready to move to the monitoring phase of the Enforcement Order.

The Commission discusses the option to request an update for the August 8, 2023 meeting and that fining is a last resort for cases when progress is not being made. Postma states that the communication disconnect is with the contractor and that the property owner has urgently conveyed to the contractor that the approved plan must be adhered to. The Commission discusses that by the August 8, 2023 meeting, the applicant must present for approval a list of alternatives to the plantings that were not obtainable, a report on the work that has been done to comply with the approved plan, a schedule for the next steps, and a projected work end date. The Commission discusses that fines will be enforceable if these steps are not adhered to.

Squibb: Motion to amend the Enforcement Order on 16 Branch Lane as discussed.  
Redmond seconds. Buchsbaum takes a roll call vote. Motion carries (4-0).

**c. Potential Violations, if any**

**i. New: 43 Wood Lane - Eric & Suzanne Ewer**

Nick Ellis from Commonwealth Hydroseed and Eric and Suzanne Ewer, the owners of 43 Wood Lane, are present. Ewer states that they started this process in early 2022. Ewer shares a site plan and states that Suzanne's family, Tony Jack specifically, has owned the land since. Ewer states that they bought the property from Jack.

Ewer states that the Centerville side of Wood Lane is a quarter mile long and drops 30 feet in elevation. Ewer shares a photograph of the high level of water on the road in a typical rain event, stating that when rain events would occur, the water running down to the wetlands caused erosion, which he attempted to mitigate over the years with different kinds of seed. Ewer hired an engineer to create a plan, which they shared with the Commission, to create a landing or deceleration zone for the water at the top of the property, away from the buffer zone, and to use riprap to slow the flow of water.

Ewer states that the erosion controls were in place when the work began in 2022. Ewer states that they provided photos of the project to the Planning Department in 2022 and did not hear back from them. The contractor, Coster and Sons, reassured the Ewers that they were doing State-approved erosion control. Ewer shares pictures from June 26, 2023 of the washout area and states that Commonwealth Hydroseed was hired for erosion control. Ewer notes that there has been no erosion in the last two storms.

The Commission discusses that the Ewers are unsure of how much fill has been brought in, that the Ewers requested that the contractor stay out of the 100-Foot Buffer Zone, that riprap was installed in the corner of the property to mitigate the erosion, and that two straw wattles were installed at the bottom of the rip rap. Ellis states that the upper areas were hydroseeded with a blend of Rye, Creeping Fescue, and Kentucky Bluegrass and that no fertilizer was used. Ellis states that the mulch is a profile performance blend of cellulose and wood, and that a tackifier was used to keep it in place. On the lower elevations, only wood and cellulose mulch was used.

Spidaliere states that he observed a lot of dirt added to the site at his June 26, 2023 site visit and that there are no permits on file with the Commission. Ewer states that they were under the impression that they did not need a permit based on providing photos and plans to the Planning Department in 2022 and not hearing anything in response. Spidaliere states that the erosion control appeared to be much closer than 100 feet away from the water, but he was only able to observe visually. Spidaliere observed that some Norwegian Pine trees were removed and the cuttings were left on the edge of the pond, and Ewer confirms that he has since cleared the cuttings. Spidaliere states that at the site visit he requested that a construction vehicle be moved away from the pond, and Ewer confirms it was moved to comply with his request on the same day.

The Commission discusses scheduling a site visit, that Eaglebrook Engineering and Surveyors conducted the wetlands delineation in 2022, that the Ewers will provide all the plans, documents, and photos to the Commission, and that work must cease until the Commission completes the site visit.

A site visit is scheduled for Saturday, July 29, 2023 at 8 a.m.

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

The Commission discusses that the Open Space and Recreation Committee (OSRC) would perhaps be a more appropriate choice than this Commission. The Commission discusses that the Harbor Management Authority, Community Preservation Committee, and Clean Energy Advisory Committee would also be a good fit for the opportunity. Redmond states that she will reach out to Green Beverly with these suggestions.

The Commission discusses that the Planning Board used to send a letter to parties involved in all real estate transactions to make them aware that if any portion of a property is within protected areas, they have to go before the Conservation Commission.

**e. Expenditure approvals, If Any**  
**i. Conservation Agent June Mileage Reimbursement**

Redmond: Motion to approve the mileage reimbursement totaling \$24.86. Squibb seconds. Buchsbaum takes a roll call vote. Motion carries (4-0).

**ii. MACC Annual Membership**

Spidaliere states that the Massachusetts Association of Conservation Commissions (MACC) membership fee, due on August 1, 2023, was \$533 previously. With the addition of new a staff member, there is an additional \$60 fee, bringing the total to \$593, which comes from the Wetlands fund. The Commission discusses that the workshops are helpful and that there is an annual conference. Spidaliere states that he has added the email addresses for Duffy and Charles to the MACC roster, and that if Commission members attend MACC events the registration fees are eligible for reimbursement from the Commission. Once a month the MACC hosts a lunch-and-learn.

Squibb: Motion to approve the MACC membership dues totaling \$593.00. Redmond seconds. Buchsbaum takes a roll call vote. Motion carries (4-0).

The Commission discusses purchasing a new BVW manual. Spidaliere states that he will research the purchase of a new BVW manual and whether there is a video of the recent DEP training.

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

- a. 134 McKay Street, DEP File #5-1398** – regrade Fairway #18, reconstruct the wooden deck bridge, reconfigure the paved cart path, and construct a retaining wall – City of Beverly



The Commission discusses the following conditions:

1. Any excavated materials/debris shall be removed and properly disposed of offsite.
2. Storage of construction materials and dumpster shall be located on existing paved areas or outside the resource areas.
3. Erosion and sedimentation control devices shall be installed along the edge of the down gradient side of the project area prior to construction as depicted on the approved site plan.
4. During the work, disturbed soils are to be re-stabilized and re-vegetated as soon as possible.
5. Invasive Plantings outlined in the NOI application shall be removed mechanically as thoroughly as possible and the area replanted with wetland seed mix and native plantings outlined in "Grading & Drainage Detail Plan" by BSC Group, dated June 5, 2023.
6. Prior to the issuance of a Certificate of Compliance, the mitigation plantings shall exhibit at least 75% overall survivorship for herbaceous plants and shrubs and 100% overall survivorship for trees, after two (2) growing seasons post-installation and shall be verified by the Conservation Agent.
7. Annual monitoring reports of the native plantings outlined in Special Condition #6 above shall be provided to the Conservation Agent at the end of the growing season, for a minimum of two growing seasons.
8. The use of timbers pressure treated with A.C.Q. (Alkaline Copper Quats) or the equivalent is permitted as construction material for the bridge decking. Creosote treated timber is prohibited. Wood preservative must be dry before any treated wood is used in construction.
9. If the owner/applicant wishes to use herbicides to control invasive plantings, they shall return to the Conservation Commission for permission.

Redmond: Motion to issue an OOC with the special conditions as discussed including special, standard, and perpetual conditions under both the Wetlands Protection Act and the Local Wetlands Ordinance. Duffy seconds. Buchsbaum takes a roll call vote. Motion carries (4-0).

## **9. Approval of Minutes**

### **a. June 27, 2023**

The members review and offer edits to the June 27, 2023 draft meeting minutes.

Redmond: Motion to accept the June 27, 2023 meeting minutes as amended. Squibb seconds. Buchsbaum takes a roll call vote. Duffy abstains. Motion carries (3-0-1).

The Commission discusses that Spidaliere will be absent from the August 8, 2023 meeting. The Commission discusses whether the meeting format will continue to be remote only.

## **10. Adjournment**

Redmond: Motion to adjourn. Duffy seconds. Buchsbaum takes a roll call vote. Motion carries (4-0).

**Meeting adjourns at 9:30 p.m.**

**The next regular meeting of the Conservation Commission is scheduled for Tuesday, August 8, 2023.**