

CITY OF BEVERLY  
PUBLIC MEETING MINUTES

BOARD OR COMMISSION: Beverly Conservation Commission  
SUBCOMMITTEE:  
DATE: August 3, 2021  
LOCATION: Beverly City Hall, 3<sup>rd</sup> Floor Council Chambers,  
191 Cabot Street, Beverly, MA 01915  
MEMBERS PRESENT: Chair Christine Bertoni, Vice Chair Robert Buchsbaum,  
David Alden-St. Pierre  
MEMBERS ABSENT: William Squibb  
OTHERS PRESENT: Director of Planning Darlene Wynne  
RECORDER: Stacia Chamberlain

1. Bertoni calls the meeting to order at 7:02 p.m.

2. **Recess for Public Hearings**

Buchsbaum moves to recess for public hearings. Seconded by Alden St. Pierre. The motion carries 3-0.

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

a. **Continued: 55 Thissell Street, DEP File #5-1339 – construct in ground pool, gravel parking, pumped sewer system, and associated appurtenances – Jerome & Kristin Kyllingstad**

Documents Reviewed: Documents Reviewed: Notice of Intent Application dated June 1, 2021 and revised Site Plan by Griffin Engineering and Landscape Plan by Laura Rutledge, dated July 27, 2021

Bob Griffin of Griffin Engineering representing the applicant presents the revised plan, and recaps the Commission's site visit. Griffin notes that the repair of the stone wall is now included on the plan, stormwater will run into the municipal drainage system, specific trees are now slated to be saved, and certain trees along the back of the pool and shed will be removed. A revised landscape plan by Laura Rutledge was also provided and Griffin presents the changes. Bertoni asks for clarification on the trees to be removed. Griffin clarifies that the sewer work will be carried out by the applicant and not the City. Buchsbaum asks about the landscaping plan, and clarification on certain varieties.

There being no further questions from the Commission nor comments from the public, Buchsbaum moves to close the hearing. Seconded by Alden-St. Pierre. The motion carries 3-0.

**b. Continued: 175 & 179 West Street, DEP File #5-1342 – seawall reconstruction, fence replacement, landscaping – Schulmeyer 2011 Irrevocable Trust c/o Gerhard Schulmeyer**

Documents Reviewed: Notice of Intent Application by Hancock Associates and Demolition & Erosion Control Plan and Site Plan dated June 28, 2021

David Cowell of Hancock Associates, representing the applicant, recaps the project. He refers to Mass DEP comments regarding wave reflection. Cowell states that the seawall needs to be raised to protect the property for resiliency planning. The seawall at the adjacent property is 2 feet higher and raising the wall at the subject property to match the height would not cause wave reflection onto abutting properties. Charlie Wear of Hancock Associates, clarifies that raising the wall will not deflect additional water onto adjacent properties. Buchsbaum asks how often the wall is breached and Wear notes that it occurs frequently and has become a problem as the water flows above the wall, eroding the wall and the yard beyond. Buchsbaum asks whether the bank is a sand source, which Wear clarifies that it is not. Bertoni and Buchsbaum request a memorandum explaining that the applicant completed due diligence to address DEP's concerns.

There being no further questions from the Commission nor comments from the public, Buchsbaum moves to close the hearing. Seconded by Alden- St. Pierre. The motion carries 3-0.

**c. New: 58 West Street, No DEP File # as of posting – replace an existing deck, walkway, and steps, and construct a new patio – Patrick J. Carlucci**

Documents Reviewed: Notice of Intent Application by Hancock Associates and Plan of Land to Accompany NOI dated July 20, 2021

David Cowell of Hancock Associates, representing the applicant provides an overview of the project and notes that there is no DEP file number yet. Cowell explains that the performance standards for Bordering Land Subject to Flooding will be met, as there will be no change in grade. The applicant wants to put in an outdoor play structure and would replace 6 to 12 inches of soil with play sand. They would also like to put in a perimeter fence and will not be removing trees or shrubs to square off the property lines. The rear slope on the south side of the property would be replanted with native species and stabilized. Cowell proposes white cedar along the south property line. The Commission confirms they want to hold a site visit. Bertoni asks how they would ensure that there would be no volumetric displacement along the floodplain; Cowell clarifies that they could have a survey conducted for due diligence. Bertoni asks whether the fence can be removed from the 25-Foot No Disturbance Zone and Cowell affirms it can. Bertoni asks whether there are any changes to the retaining walls. Cowell states that there is a proposed retaining wall and will clarify this for the next hearing. Liz Gibbons, 56 West Street, states she is in favor of the project and it will improve the vegetation in the area. She asks whether the work will require construction access through her property, and if it will affect the wetlands on her property. Bertoni clarifies that the

Commission will request details on this. Gibbons also asks about the fence material; Cowell is not sure. Bertoni states that that detail should also be included in the presentation. The Commission schedules a site visit for Monday, August 9, 2021 at 5pm.

There being no further questions or comments, Alden-St. Pierre moves to continue the hearing to the August 24, 2021 meeting. Seconded by Buchsbaum. The motion carries 3-0.

**d. New: 16 Fosters Point, DEP File #5-1304 – request to amend Order of Conditions – Julie Tsakirgis**

Documents Reviewed: Request to Amend Order of Conditions dated July 21, 2021 and Site Plan of Land revised dated July 19, 2021 by Hancock Associates; Foundation Plan by RAC & Assoc., Inc, dated June 20, 2021

David Cowell of Hancock Associates representing the applicant, describes the amendment request, including replacement of the structure, including the foundation. Contractor Kurt Boggia discusses the events leading up to the change, noting that during demolition, the sill plates were discovered to be rotten and some of the foundation was dilapidated. The City Building Inspector told Boggia that he needed a modification to the building permit. The Zoning Board of Appeals approved the minor change, however the permit will not be issued until the Commission also approves the change.

Bertoni asks about the silt sack; it appears that the filter sock should be in place and it is not. Owner Julie Tsakirgis says that she alerted the Building Department that there was flooding in the roadway, not from work at her property. Wynne recommends they report it to the Department of Public Services on the City website for expediency. Bertoni clarifies that she hoped that the contractor would have already removed construction debris to prevent flooding; Boggia states that they have and will continue to do so.

There being no further questions or comments, Buchsbaum moves to close the hearing. Seconded by Alden-St. Pierre. The motion carries 3-0.

**4. Reconvene Regular Meeting**

Buchsbaum moves to reconvene the regular meeting. Seconded by Alden-St. Pierre. The motion carries 3-0.

**5. Requests for Determination of Applicability**

**a. Continued: 36 Middlebury Lane – remove existing deck; construct screen porch, multi-level deck, and patio – Kevin & Jennifer Wagner**

Documents Reviewed: Request for Determination of Applicability Application, with associated attachments and plans by Griffin Engineering, dated June 24, 2021

Upon request of Griffin Engineering on behalf of the applicant, Alden-St. Pierre moves to continue the request to the August 24, 2021 meeting. Seconded by Buchsbaum. The motion carries 3-0.

**b. New: 20 Bay View Avenue – contaminated soil remediation – US Coast Guard Civil Engineering Unit, c/o Michael Andrews**

Documents Reviewed: Request for Determination of Applicability Application, with associated attachments and plans by Renova Environmental, dated July 22, 2021

Wynne reads the legal notice.

Kelly Giles of Renova Environmental Company, representing the applicant, presents the proposal. The restoration of the property includes excavation of soil contaminated with lead. Bertoni asks if lead abatement has been completed; Giles confirms that it was. Giles states that 550 tons of soil would be removed. Bertoni asks about site access; Giles says that they will use the driveway and the pedestrian walkway on the north side of the property, and may remove a fence to allow for machinery access. Giles clarifies that their company is doing the soil contamination removal, and that a Massachusetts Licensed Site Professional will ensure that all of the contaminated soil is removed. Bertoni expresses concern with review under a Request for Determination of Applicability and believes that this project requires a Notice of Intent due to the scope of the work and proximity to the ocean.

There being no further questions, Alden-St. Pierre moves to issue a Positive Determination requiring filing of a Notice of Intent. Seconded by Buchsbaum. The motion carries 3-0.

**c. New: 15 Cornell Road – remove in-ground swimming pool – Carol Gould**

Documents Reviewed: Request for Determination of Applicability Application, with associated attachments and plans by Carol Gould, dated July 19, 2021

Wynne reads the legal notice.

Applicant Carol Gould, describes the proposed project including removal of the fiberglass pool and the concrete surrounding it. Bertoni asks if the access to the property for crew is readily available; Gould clarifies that the driveway does allow for trucks and the crew to access the site with their equipment. Bertoni asks how much fill will be needed; Gould is uncertain on the amount but notes that the fill would be 'clean'. Buchsbaum asks about landscaping, and Alden-St. Pierre clarifies that the contractor email says it will be seeded. Bertoni requests that they notify the Conservation Agent, with information on how much material was removed.

There being no further questions, Bertoni makes a motion to issue a Negative 3 Determination with the conditions as discussed. Seconded by Buchsbaum. The motion carries 3-0.

d. **New: 29 Foster Street – replace existing stairs and retaining wall gardens, install plantings – Chester Walsh**

Documents Reviewed: Request for Determination of Applicability Application, with associated attachments by Chester Walsh, dated July 15, 2021

Wynne reads the legal notice.

Applicant Chett Walsh states that the work is already complete and that the site is stable. Walsh recaps that the after-the-fact Request for Determination of Applicability was filed in response to the Commission's Enforcement Order and will document and approve the completed work. The Commission confirms there is no further work planned and that herbicides will not be used on the Japanese knotweed.

There being no further questions, Buchsbaum makes a motion to issue a Negative 3 Determination with the conditions as discussed. Seconded by Alden-St. Pierre. The motion carries 3-0.

6. **Old/New/Other Business**

a. **Minor Modification to Order of Conditions**

i. New: 175 Elliott Street, DEP File #5-1281

Documents Reviewed: Request for Minor Modification to the Order of Conditions and plans by Griffin Engineering, dated July 27, 2021

Bob Griffin of Griffin Engineering representing the City of Beverly, discusses the proposed changes in the front of the building including increasing the parking area and impound lot. Buchsbaum asks what the original plan was for the area of the expanded parking and impound lot. Griffin explains that it was to be lawn, and that the original site was mostly pavement. Buchsbaum asks whether permeable pavement could be used; Griffin responds that this requires significant maintenance to keep functioning properly and the City isn't prepared to take care of permeable pavement. Griffin also states that having ground mounted solar panels in the future would keep surface runoff cleaner. Bertoni asks if overflow parking is required for this site. Griffin clarifies that to maximize the solar project, the panels must be sited over a paved parking area. Solar panels would also be placed on the roof. Bertoni notes that the solar panels were not shown over the impound/parking lot on the plans provided to the Commission. Griffin confirms that the solar project is not yet proposed, but this is something that the City is working on. Griffin says that there will be landscaping on site as well. Bertoni notes that the Commission has not yet reviewed the landscaping plan and is concerned about additional paving at the site. Griffin clarifies that the City needs the additional spaces that were lost as part of the negotiation with the adjacent Cummings Center property. Griffin confirms the project is meeting the performance standards of the Wetlands Protection Act and requirements for stormwater management, and that it is an overall improvement to the site. Buchsbaum

says that having solar is a positive but hopes they will have some kind of planting or habitat enhancement component. Griffin proposes that they submit a revised plan for the next meeting, reflecting additional plantings.

Alden – St. Pierre moves to continue the request to the August 24, 2021 meeting. Seconded by Buchsbaum. The motion carries 3-0.

**b. Enforcement Orders**

i. Continued: 11/13 Bay View Avenue

Documents Reviewed: Enforcement Order Site Plan and letter by Griffin Engineering, dated July 27, 2021

Bob Griffin of Griffin Engineering representing the applicant presents the revised plan and describes the updates including removing a woodpile and dune restoration, as discussed on the Commission's site walk on May 8, 2021. Bertoni requested that the signage and fencing be installed as soon as possible, even if planting is not done right away. The Commission discusses timing for the restoration work to be completed.

There being no further questions, Alden – St. Pierre moves to amend the enforcement order with the conditions as discussed. Seconded by Buchsbaum. The motion carries 3-0.

ii. Continued: 62 South Terrace

Documents Reviewed: Restoration Site Plan by Griffin Engineering, dated June 15, 2021

Griffin Engineering is coordinating with the owner and expects to submit a revised plan for review at the August 24, 2021 meeting. The Commission takes no action.

iii. Continued: 0 Netherton Avenue

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

David Cowell of Hancock Associates representing the applicant describes the existing conditions at the site and requests guidance for a restoration plan. Bertoni recalls that during the April 17, 2021 site visit, there was clear encroachment of the fill on the wetlands and that the fill needs to come out. Cowell acknowledges this and proposes that first the wetland line needs to be determined and find the natural border of the wetland and lawn. Cowell notes that there was a planting bed and lawn within the 25-Foot No Disturbance Zone, prior to the fill placement. Buchsbaum recommends they start the process of removing fill from the wetlands as soon as possible, to inform the completion of the restoration plan. Cowell concurs with this approach. Sharon Hughes, 13 Western Avenue, states that there is an immense amount of water in her yard, more than she has ever experienced. The Commission questions whether the fill has affected the absorptive

properties of the wetlands and is contributing to the increased water on adjacent properties.

Buchsbaum moves to amend the enforcement order to include a restoration plan, remove fill that has encroached on wetlands, and determine where the wetlands line, to have a report or a plan of action by September 7, 2021. Seconded by Alden – St. Pierre. The motion carries 3-0.

**c. Potential Violations, If Any**

Alden-St. Pierre asks if Beverly Golf and Tennis Club has been allowed to cut trees, and Bertoni says that there were possibly some tall trees were in the Commission’s jurisdiction.

**d. Tree Removals, If Any**

There are none for review.

**e. Tree Removal Protocol Update**

There are no updates to review.

**f. Minor Project Permits, If Any**

There are none for review.

**g. Continued: Beverly Airport – update on Vegetation Management Program – Airport Solutions Group**

There are no updates to review.

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

Wynne reports that the Commission received a notice from National Grid summarizing the completed tree maintenance work at the 89 Boyles Street substation, to ensure continuity of electrical service. Wynne reads the notice for the record. Bertoni recommends that a response be sent to National Grid requesting that they notify the Commission prior to future work.

Buchsbaum discusses a letter he drafted to Mayor Cahill, encouraging him to fill vacant seats on the Commission. The Commission reviews and Bertoni will sign the letter.

**i. Expenditure Approvals, If Any**

There are no expenditures for review.

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

**a. 55 Thissell Street, DEP File #5-1334**

The Commission recaps the project and discusses the proposed conditions. Alden – St. Pierre moves to issue an Order of Conditions under the Massachusetts Wetlands Protection Act and Beverly Wetlands Protection Ordinance that includes the standard general and perpetual

conditions, as well as the special conditions as discussed. Seconded by Buchsbaum. The motion carries 3-0.

**b. 175 & 179 West Street, DEP File #5-1342**

The Commission recaps the project and discusses the proposed conditions. Bertoni recalls discussion about a condition about wave deflection. Alden – St. Pierre moves to issue an Order of Conditions under the Massachusetts Wetlands Protection Act and Beverly Wetlands Protection Ordinance that includes the standard general and perpetual conditions, as well as the special conditions as discussed. Seconded by Buchsbaum. The motion carries 3-0.

**c. 16 Fosters Point, DEP File #5-1308**

The Commission recaps the project and discusses which conditions would apply under the Amended Order. Buchsbaum moves to issue an Amended Order of Conditions, with all conditions in the original Order to continue to apply, with the additional special conditions as discussed. Alden – St. Pierre seconds. The motion carries 3-0.

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

**a. May 13, 2021 meeting minutes**

The Commission reviews the minutes and requests review of the meeting recording to clarify portions of the discussion. The Commission tables their review, pending the updates.

**b. July 13, 2021 meeting minutes**

The Commission reviews the draft minutes and offers edits. Buchsbaum moves to approve the minutes with the revisions as discussed. Seconded by Alden – St. Pierre. The motion carries 3-0.

9. **Adjournment**

Alden-St. Pierre moves to adjourn at 10:25 p.m. Seconded by Buchsbaum. The motion carries 3-0.

The next regular meeting of the Conservation Commission will be held on Tuesday, August 24, 2021.