

CITY OF BEVERLY  
PUBLIC MEETING MINUTES

BOARD OR COMMISSION: City of Beverly Conservation Commission  
DATE: August 8, 2023  
LOCATION: Virtual via Google Meet  
MEMBERS PRESENT: Chair Christine Bertoni, Amber Redmond, William Squibb, Tara Duffy, Grace Charles  
MEMBERS ABSENT: Vice Chair Robert Buchsbaum  
OTHERS PRESENT: Director of Planning and Development Darlene Wynne, Conservation Field Inspector Scott White  
RECORDER: Naomi Moca

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1. Chair Bertoni calls the meeting to order at 7:03 p.m. and reads the public notice regarding holding meetings remotely due to COVID-19.

**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  
i. Emergency authorization request and plan for seawall repairs

Miranda Siemasko of Glovsky and Glovsky, Bob Griffin of Griffin Engineering, and property owner Chris Velonis are present. Griffin states that Velonis filed an NOI in March of 2023 to make repairs to the seawall in front of his property for safety reasons. Griffin shares 2017 photos showing the intact seawall and 2023 aerial photos showing the damaged seawall. Griffin states the original plan was to extend the steel sheet pile wall from the neighboring property, but the six to nine months needed to obtain permitting would leave the house unprotected in the intervening time, thus, today’s request is for an Emergency Authorization.

Griffin shares the site plan with the proposed work within the footprint of the existing seawall. Griffin states that the work will occur entirely within the property within the 30 days permitted in the Emergency Authorization guidelines. Griffin states that Mass DEP Waterways was of the opinion that the work qualifies as a modification to the existing Chapter 91 license and Griffin points out that the work will result in a better-quality product when the time frame is compressed to 30 days. Griffin states that incorporating steel sheet piling and working in the 10-foot right of way will be addressed by Velonis at a later time.

Griffin states that the new wall will be taller than the existing wall, with a gabion mattress covered with a layer of sand on top. The top of the proposed wall is four to five feet above the

elevation of the existing wall. The grade will be increased slightly in elevation to further provide protection to the property and the wall will be 30 inches thick. Griffin states that Velonis has been working with Bill Manuell of Wetlands and Land Management to comply with the Endangered Species Program, which states that the work in the priority habitat area can only commence after August 31 to protect the Piping Plover.

Griffin states that he sent the plan to Mass DEP Waterways. The Commission discusses that the plan includes adding a geotextile beneath the stone revetment. Griffin clarifies that while there is no analysis on how the raising of the site's elevation may affect the abutting properties, the work uses similar stone and riprap materials on each side, and thus will blend in. The gabion mattress will be installed between the new wall and the existing secondary wall.

The Commission discusses that a construction pathway will be established through the site and any disturbed vegetation will be restored to its original condition. Griffin expresses willingness to plant sea grass or any vegetation that is required. The Commission discusses that the gabion mattress will be slightly more seaward than the neighboring property's gabion mattress.

The Commission discusses that while there is a quorum tonight, Charles and Duffy are not eligible to vote on this matter since they were not seated on the Commission when the item was introduced. There were four seated members at the time the matter was first introduced so at that time a quorum was defined as three members.

Siemasko states that Velonis waited to make sure he had a contractor before filing. The Commission discusses that there is a quorum tonight for an Emergency Authorization, and the plan going forward will be to file a modification to the Emergency Authorization.

Director Wynne summarizes that per the guidelines, a quorum is defined as the majority of the Commission at the time of the vote and that the majority vote of the quorum shall constitute the decision. Wynne clarifies that a seated member being absent from a meeting is different from a person not being seated on the Board at the time of a meeting. Griffin proposes that Buchsbaum listen to the meeting recording and be prepared to vote at the August 29, 2023 meeting.

Wynne states that she will attempt to ensure that there is a quorum before the next meeting and that Buchsbaum plans to be present at the August 29, 2023 meeting.

Redmond: Motion to continue the hearing to the August 29, 2023 meeting. Squibb seconds. Bertoni takes a roll call vote. Motion carries (5-0).

- b. **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

Wynne states that the applicant requested a continuance.

Redmond: Motion to continue to the August 29, 2023 meeting. Duffy seconds. Bertoni takes a roll call vote. Motion carries (5-0).

- c. **Cont.: 34 South Terrace, DEP File #5-1389** – construct a fixed pier with associated gangway, floating dock, and stairs – Virginia Wallace

Bob Griffin of Griffin Engineering is present and observes that there is a quorum issue again. Griffin states that the debris has been removed by the neighbors and that the applicant is amenable to continuing the item to the August 29, 2023 meeting.

Squibb: Motion to continue to the August 29, 2023 meeting. Redmond seconds. Bertoni takes a roll call vote. Motion carries (5-0).

The Commission discusses whether the newly seated members are able to listen to the recording and become eligible to vote. Wynne states that she will investigate whether it is possible when the members were not seated at the time of the meeting on the recording.

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

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

- a. **New: 40 Haskell Street** – construct a deck on the back of the house and remove an existing porch – Abigail Coyle

Abigail Coyle of 40 Haskell Street is present and shares photos of the back of the house, stating that she is requesting approval to build an approximately 10-foot by 20-foot deck on the rear of the house and to tear down the porch from the front of the house and to replace it with a stairway. Coyle points out the stream running along the rear property line.

Wynne reads the legal notice.

Field Inspector White states that he visited the site and observed that the most extreme corner of the proposed deck appeared to be about 35 to 40 feet from the stream. The Commission discusses that there is no wetlands delineation included, that the structure is a single-family residence converted from a single-family house with an in-law apartment, that the stairs from the deck will come down from the driveway side, and that Redmond is not available to attend a site visit. The Commission requests a map with the delineation of the resources and wetlands.

The Commission discusses that it is not appropriate to approve only the stairs portion of the plan tonight. Coyle states that she plans to list the property for sale imminently, and if the determination is not approved tonight, she does not plan to move forward with the plan. Coyle withdraws the request for this reason.

- b. **New: 34 Lothrop Street** – replace Norway Maples with Native Trees and add native plants, mulch, stone steps, and drip irrigation – Wayne Ferrari

Wynne reads the legal notice. Property owner Wayne Ferrari is present and states that he provided a comprehensive long-term landscaping plan for the property as requested by the Commission. Matt Ulrich of Ulrich Landscape Collaborative is present and shares photos of the existing conditions of the slope on the back of the property that is surrounded by a chain link fence. Ulrich shares the landscape plan and the Commission discusses where the planting plan is in relation to the buffers, that the proposed work is between the 25-foot and 50-foot buffer, that there is 20 feet of grass between the property and the resource area, that Iron Tree will access the property for the tree removal through Bartlett Gardens in February because the ground should be frozen at that time, that planting will occur in Spring 2024, that in the intervening time the area will be maintained with weeding, that drip irrigation will be installed initially to establish the drought-tolerant plants and then be tapered off, and that the Parks and Recreation Department has authority over Bartlett Gardens.

The Commission discusses the following conditions:

1. Tree removal shall be conducted via hand tools.
2. Removal or grinding of roots or stumps is prohibited.
3. All cut materials shall be removed for appropriate off-site disposal.
4. Drip irrigation shall be phased out by the end of the second growing season.
5. Tree removal shall take place when the ground is frozen and stabilizing mats shall be used as necessary.
6. The site access and related permissions are the responsibility of the owner and the contractor.

Ferrari states that he is open to planting recommendations.

Redmond: Motion to issue Negative 3 determination with the conditions as discussed.  
Squibb seconds. Bertoni takes a roll call vote. Motion carries (5-0).

## **6. Requests for Certificates of Compliance**

- a. Cont.: 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 due to a miscommunication, the landscaper installed the plantings without providing the plan as requested, so the applicant has instead provided details of the landscaping that was done. Bastys states that the work was done approximately two weeks ago. The Commission discusses that the condition of 75% survivorship after two growing seasons cannot be met at this time as two seasons have not yet passed. The Commission discusses that the mitigation square footage calculations were not provided. Bastys clarifies that some of the islands in the parking lot were removed at the request of the Fire Department to comply with firetruck circulation requirements.

Bastys agrees to provide the mitigation square footage calculations, to provide a list of what was planted, and to address the grass issues. The Commission discusses that the information is required one week prior to the August 29, 2023 meeting.

Squibb: Motion to continue to the August 29, 2023 meeting. Redmond seconds.  
Bertoni takes a roll call vote. Motion carries (5-0).

- b. New: 5 Wedgemere Road, DEP File #5-1297** – construct a building addition with associated appurtenances – Kirstin Lindeman

Kirstin Lindeman of 5 Wedgemere Road is present and states that White recently conducted a site visit. The Commission discusses that all the special conditions were met. Wynne reads the perpetual conditions. White concurs that the conditions have been met.

Redmond: Motion to issue a complete Certificate of Compliance for 5 Wedgemere Road DEP File #5-1297. Charles seconds. Bertoni takes a roll call vote. Motion carries (5-0).

- c. New: Offshore Atlantic Ocean, DEP File #5-1317** – install a fiber optic telecommunications submarine cable system within Offshore waters/Atlantic Ocean – Edge Cable Holdings USA, LLC

Alexia O'Brien of Environmental Resources Management is present on behalf of the applicant and states that the work was completed in March 2023. O'Brien states that the cable was installed as planned and no issues were encountered. O'Brien reviews the special conditions and summarizes how each condition was met.

Squibb: Motion to issue a Certificate of Compliance for Offshore Atlantic Ocean, DEP File #5-1317. Redmond seconds. Bertoni takes a roll call vote. Motion carries (5-0).

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

### **a. Minor Modifications to Orders of Condition**

#### **i. New: 4 Arbella Drive, DEP File #5-1378**

Property owners Tom and Elizabeth Micka are present and state that they are requesting the elimination of the rain garden from the conditions since they have reduced the total size of the project. The Mickas present the site plan, stating that the scope of the project has been scaled back due to cost. The plan now is to construct an addition over the existing decking and replace the decking down to the pool. The Mickas plan to do all the plantings that are listed in the order currently, and any other suggestions the Commission might have, with the exception of the rain garden. The Commission discusses that the minor modification is favorable to the Commission's purposes, that the decking will be constructed over the existing decking footprint, and that the

pool equipment will remain where it is currently next to the residence. The Mickas state that the trees addressed in special conditions #6 and #7 will no longer be impacted by the revised plan. The Commission discusses that it is appropriate to strike conditions #6 and #7.

Redmond: Motion to accept the modifications as minor and to strike conditions #6 and #7. Charles seconds. Bertoni takes a roll call vote. Motion carries (5-0).

**b. Extension to Orders of Condition, if any**

**c. Enforcement Matters**

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

Property owner Steve Slocomb states that the invasives removal was completed. Slocomb states that Autumn Olive, Norway Maple, and Asian Bittersweet were the most prevalent invasive species. Virginia Creeper vine was also removed. The native trees that were observed on the site were American Elm, Chokecherry, and White Ash. The removal was done using hand pulling, with some mechanical pulling using a mini-excavator. Slocomb states that he provided the report of the work to Conservation Agent David Spidaliere and will also provide it to the Commission and to Wynne. The Commission discusses that it is appropriate to review the information before lifting the Enforcement Order since the report was not in the staff notes for tonight's meeting.

Squibb: Motion to continue the Enforcement Order to the August 29, 2023 meeting. Redmond seconds. Bertoni takes a roll call vote. Motion carries (5-0).

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

Alex Patterson and Frank Postma of EA Engineering are present. Patterson states that some planting occurred at the site between July 21 and July 24, 2023 and that White conducted a site visit on July 27, 2023. Patterson states that the landscaper was unable to obtain all the needed plantings from the nursery, and Patterson obtained a list of the substitution plantings, but did not yet provide it to the Commission.

The Commission discusses that fines are appropriate at this point as the applicant is in violation of the Enforcement Order. The Commission discusses that it is appropriate for the applicant to provide a list of the plants that are already planted and a list of the substitution plantings.

Bertoni reads the memo from White dated July 31, 2023 into the record.

Materials added to the record:

- Memo to the Commission from White dated July 31, 2023

The Commission discusses that the property owner has not complied with the Enforcement Order. Postma states that he will encourage the property owner to comply with the Enforcement

Order and agrees to provide a list of the plants that are already planted and a list of the substitution plantings to the Commission.

Duffy: Motion to assess fines beginning on August 9, 2023, accompanied by an explanatory letter from the City Solicitor's Office, associated with the violation of the Enforcement Order on 16 Branch Lane. Redmond seconds. Bertoni takes a roll call vote. Motion carries (5-0).

**d. Potential Violations**

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

Property owners Eric and Suzanne Ewer are present and state that the family donated the property to the City of Beverly, which is the abutter. The Ewers state that the wetland delineation was done by Emily Kramer in February 2022 and that they filed the wetland delineation with Spidaliere approximately a week ago.

The Commission discusses that the wattle was properly installed at the bottom of the silt fence. Ewer states that the project has performed well as demonstrated by today's storm. The Commission discusses that permeable pavers were installed, that the neighbors' sloped yards contribute to the area's saturation, that a small erosion channel was observed at the site visit, and that there may be issues with runoff in the future.

The Commission discusses that the issue needing resolution is that there is unpermitted fill within jurisdictional buffers and that the Commission will work with the owner to bring the project into compliance to satisfy the Wetlands Protection Act and the local bylaw. The Commission recommends that the Ewers contact a professional such as the person who did the wetlands delineation to draft a restoration plan, that the plan should include mitigation for the tree roots that were cut in the course of the work, and that the Conservation Office will provide the applicant with a list of appropriate professionals. Wynne states that Spidaliere will be returning to the office on Monday, August 14, 2023.

Redmond: Motion to issue an Enforcement Order requiring that the applicants provide a restoration plan to the Commission in time for review at the September 26, 2023 meeting. Squibb seconds. Bertoni takes a roll call vote. Motion carries (5-0).

The Commission discusses that the donation of the land encompasses the first pond.

**ii. Cont.: 32 South Terrace – Chuck Peterson**

White states that he and Spidaliere conducted a site visit and observed that the unpermitted piers were removed. Wynne states that 34 South Terrace owner Virginia Wallace reported that the structures were removed as she expected.

**iii. Cont.: 36R South Terrace – Jason Irving**

White states that he and Spidaliere conducted a site visit and observed that the unpermitted piers and debris were removed. White states that they observed that the float has been reduced to 10 feet by 10 feet in size. White states that there is a Chapter 91 license on file.

**iv. New: 531R Hale Street – Loring Trust**

Caleb Loring III, the sole trustee of the Loring Trust, is present and states that he anticipates that the Commission will want a wetlands delineation. Loring observes that a site visit may be appropriate. Loring states that there are five properties that are beneficiaries of the trust, including himself, 555 Hale Street owned by the Dicks, 565 Hale Street owned by the Thomases, 569 owned by Peter and Babette Loring, and 571 Hale Street owned by the Buckoviches. Loring reads his prepared history of the work on the site, including that in February 2020 five to six trees were removed to enhance the view, that an additional six to eight trees were removed in the intervening years, and that multiple trees were pruned. Loring III agrees to provide his written narrative to the Conservation Office.

Materials added to the record:

- Summary of 531R Hale Street by Caleb Loring, III, dated August 8, 2023

The Commission discusses that a site visit is appropriate and a restoration plan resulting from a delineation of the wetland is appropriate.

**v. New: 569 & 573 Hale Street – Peter & Babette Loring**

Trust beneficiary Caitlyn White is present. Property owners Peter and Babette Loring are present and state that they live at 569 Hale Street, that they own 573 Hale Street, and that they have a deeded right to cut trees on 573 Hale Street in order to preserve the view. The Lorings state that two damaged oak trees were removed, and Norway Maples were also removed via hand tools by Cape Anne Tree.

The Commission recommends that the Lorings establish a view corridor so that it is definitively recorded for the future. The Commission discusses that the focus tonight is to cease the activities, that Loring III and the Lorings will pursue getting a delineation done, and that a site visit is appropriate.

A site visit is scheduled for Saturday, August 12, 2023 at 8 a.m. at 573 Hale Street.

Squibb: Motion to require the property owners to provide a restoration plan to the Commission in time for review at the September 26, 2023 meeting. Redmond seconds. Bertoni takes a roll call vote. Motion carries (5-0).

**vi. New: 10 Palmer Road – Jeffrey Viel**

Property owner Jeffrey Viel is present and states that he installed a pipe and some two-inch river stone into a swale behind his house and that he has ceased the work. Viel states that the swale is



from prior conservation work at the adjacent property to redirect runoff to Brimbal Avenue. Viel states that the site is not maintained, so he has conducted all maintenance over the years, which is technically Beverly Hospital's property. Wynne states that Beverly Hospital has not yet been formally notified of Viel's work.

The Commission discusses that a site visit is appropriate. Viel shares the site plan and the engineering specifications for the berm and dam from March 2000. Viel states that his opinion is that the swale is not effective for drainage. Wynne states that she will communicate the drainage issue with the Engineering Department.

A site visit is scheduled for Saturday, August 12, 2023 at 9:15 a.m.

Redmond: Motion to continue to the August 29, 2023 meeting. Duffy seconds. Bertoni takes a roll call vote. Motion carries (5-0).

**e. Minor Project Permits**

- i. **New: 0 Trask Lane** -McPhail Associates LLC on behalf of Corcoran Co (applicant)

Wynne states that the only way to access the site is via Folly Hill/Apple Village. The applicant is seeking to perform test pits within 50 feet of a wetland resource area at Site 2 and additional test pits within 50 feet of Duck Pond. The Commission discusses that the potential property buyer is doing their due diligence and exploring options for what can be built on the site. The Commission discusses that this Minor Project Permit is for test pits only and that not all of the pits fall in the Commission's jurisdiction.

**8. Adjournment**

Duffy: Motion to adjourn. Squibb seconds. Bertoni takes a roll call vote. Motion carries (5-0).

**Meeting adjourns at 10:55 p.m.**

**The next regular meeting of the Conservation Commission is scheduled for Tuesday, August 29, 2023.**