

CITY OF BEVERLY
PUBLIC MEETING MINUTES

BOARD OR COMMISSION: City of Beverly Conservation Commission
DATE: October 17, 2023
LOCATION: Virtual via Google Meet
MEMBERS PRESENT: Vice Chair Robert Buchsbaum, Amber Redmond,
William Squibb, Tara Duffy, Chris Cloutman
MEMBERS ABSENT: Chair Christine Bertoni, Grace Charles
OTHERS PRESENT: Conservation Agent David Spidaliere, Conservation Field
Inspector Scott White
RECORDER: Naomi Moca

1. Vice Chair Buchsbaum calls the meeting to order at 7:02 p.m. and reads the public notice regarding holding meetings remotely due to COVID-19.

Squibb: Motion to recess for public hearings. Duffy seconds. Buchsbaum takes a roll call vote. Motion carries (4-0-1). Cloutman abstains.

2. **Recess for Public Hearings**

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

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

Bill Manuell of Wetlands and Land Management and property owners John and Vanessa Linkletter are present. Manuell shares the site plan and summarizes the project thus far: the site has been treated as non-degraded/developed Riverfront since it has established grass. The DEP comments stated that the lot must now be treated under the 310 CMR 10.58(5) Riverfront redevelopment standards and thus the owners may have to convert a portion of their yard to mitigation plantings.

Manuell states that there is a house, lumber rack, shed, and driveway on the site. The driveway will be relocated, and the mudroom connector will be extended by four feet to avoid the Sugar Maple tree in the front yard. The threshold for development of a previously developed lot is 10% which is 1,873 square feet.

Manuell proposes that the mitigation plantings along the fence and a buffer strip of pollinator gardens and shrub plantings, as specified on the plan, plus the proposed water infiltration areas count toward the total mitigation. Manuell proposes that providing stormwater management and

preserving the tree is of equivalent environmental protection as the 508 square additional feet of mitigation that would be required as part of the 10.58(5) regulations. The property owners prefer this option over additional mitigation plantings for the sake of preserving some space in the yard for their enjoyment and for their pet dog.

The Commission discusses that the proposed driveway will be paved and the existing driveway will be made into a neighborhood meet-and-greet area with perennial pollinator plants and a bench.

The Commission discusses that stormwater management is for the additional structures, not the existing dwelling. The Linkletters state that it is preferable to not expand the stormwater management from a financial perspective. The Commission discusses whether an expectation would be set for future projects if they were to permit the swap of stormwater management and tree preservation as equivalent mitigation, and agreed that this will only be considered on a case-by-case basis.

The property owners state that they plan to remove the shed and lumber rack and replace with native plantings. The Commission discusses the potential to extend the area of plantings to connect the two areas and the Linkletters agree that that is acceptable. The Linkletters state that they do not mow that portion of the lawn and have let it naturalize over time. The Linkletters state that there will be gutters along the dormers and down to the grass. The Commission discusses the condition for the southeast portion of the property to be planted with native plantings.

Spidaliere reads an email from a MassDEP Environmental Analyst into the record.

Materials added to the record:

- Email from DEP Environmental Analyst to Conservation Agent Spidaliere dated October 17, 2023

Redmond states that, in her opinion, it is acceptable to remove the shed and lumber rack and let the area naturalize. The Commission discusses that neither pavers nor permeable bituminous concrete will be used for the driveway and the stockade fence will be relocated. The Commission discusses the condition for the Sugar Maple to remain in perpetuity and to be replaced if it were to die. The members agree that removing the lumber rack and shed and replanting with native plants at a distance of 20 feet from the property line and the addition of stormwater management features are acceptable as an equivalent level of environmental protection to the 508 square feet of required mitigation.

Redmond: Motion to close the hearing. Duffy seconds. Buchsbaum takes a roll call vote. Motion carries (4-0-1). Cloutman abstains.

- b. **Cont.: New: 54 Pickman Road, DEP File #5-1400** – construct a retaining wall, make repairs to a stairway for shoreline access, and replace a fence – Gary Benton

Spidaliere states that the applicant has requested to continue to the November 8, 2023 meeting.

Duffy: Motion to continue to the November 8, 2023 meeting. Redmond seconds.
Buchsbaum takes a roll call vote. Motion carries (4-0-1). Cloutman abstains.

- c. **Cont.: 58 South Terrace, DEP File #5-1402** – extend deck and sun porch – Ralph Puopolo

Property owner Ralph Puopolo and Matthew Marro of Marro Environmental Consulting are present. Marro states that he will address the DEP comments on the ANOI. One issue raised in the DEP comments is that according to the River Protection Act, the entire 5,580 square foot lot falls within Riverfront. The structures on the lot are pre-existing. The proposal is that the existing house will not be razed but will be renovated. The degraded areas are the existing house, walkways, existing covered porch, and existing deck. When calculated together, there are 960 square feet of previously developed/degraded impervious area, which is 17% of the total area. The proposal is to add to the existing covered porch and to add a portion of a cantilevered deck which is considered impervious. When subtracting what is being removed from what is being added, the total comes to 768 square feet, which reduces the total degraded area to 13% from 17%.

Marro states that the project proposes to add 35 square feet of plantings to achieve the total area of mitigation. There is no fill proposed.

Marro states that the second issue raised in the DEP comments is the delineation of what is considered to be the top of bank; specifically, whether it falls below the flood plain. Marro's measurement found that the top of bank is equivalent to the level of the flood plain, therefore compensatory storage will not be an issue. Marro states that he will provide the written narrative with the calculations to the Commission.

Puopolo states that he will provide the list of proposed mitigation plantings requested by the Commission, with the goal of including only non-invasive, native species.

Marro summarizes that:

- The existing home is not to be razed, merely renovated.
- The total Riverfront is the entirety of the lot at 5,580 square feet.
- 10% threshold is 558 square feet.

Proposed alterations are as follows:

1. The total existing Riverfront degraded area is 960 square feet or 17% total Riverfront on the property.
2. The proposal calls for the removal of a total of 315 square feet of existing degraded area (walkway, roofline of the current side entrance, adjacent walkway to side entrance).
3. Proposal of the addition of a cantilevered deck, so 122.4 square feet will be added onto existing degraded area and thus is not considered in this calculation.
4. A 2:1 ratio or 225 square feet of mitigation is required for the added 122.4 square feet of decking.

5. 226 square feet of mitigation will be accomplished by the proposed establishment of a green area totaling 196.2 square feet of degraded area converted to lawn, bringing the total degraded area down to 763.8 square feet or 13.6% of the Riverfront area.

The Commission discusses whether planting grass counts as restoration per Riverfront guidelines; specifically, that removing the impervious walkway and replacing it with grass is considered mitigation or restoration. Spidaliere states that it will be helpful for Marro to provide the Commission with a document responding to each of the DEP comments. The Commission discusses continuing the matter until the DEP comments are answered point by point. Marro states that the plan will be revised to accurately reflect top of bank. Spidaliere agrees to research the matter of converting the walkways to lawn.

Redmond: Motion to continue to the November 8, 2023 meeting. Duffy seconds.
Buchsbbaum takes a roll call vote. Motion carries (4-0-1). Cloutman abstains.

- d. **New: 78 Grover Street, No DEP File #** – construct a small pedestrian bridge – Essex County Greenbelt c/o Dave McKinnon

Spidaliere reads the public notice. Land Manager David McKinnon of Essex County Greenbelt is present and states that Greenbelt holds a property on Grover Street (Alt Reservation) that has a wetland crossing where a tree has been uprooted in the last few years. Logs have been placed on the stream in a grassroots effort to fill the trail in, which is problematic because it is impeding the flow of the stream and is unsafe for trail walkers as the logs are unstable. The applicant is proposing to construct a 42-foot long by three-foot wide bridge over the stream. The bridge will be one foot above high water. The deck boards are proposed to be spaced for sunlight to penetrate. The applicant is proposing to use six-by-six-inch sleepers on the ends and where the trail was damaged by the uprooted tree. The work will take place within Bordering Vegetated Wetland (BVW) and Inland Bank to Intermittent Stream.

McKinnon states that it is important that there be no obstacle in the way of the trail. The bridge will use four-by-four-inch posts driven into the ground, two-by-eight-foot stingers attached to the posts, and two-by-six-by three-inch deck boards placed on top of the stingers. McKinnon states that the hope is to use Black Locust untreated lumber or 0.6 CCA treated lumber if untreated is unavailable. McKinnon states that Greenbelt conducts annual maintenance checks on all its structures. The Commission discusses that the bridge will have ramps at grade to prevent the degrading of the trail.

The Commission discusses that due to the lack of a DEP file number, the item must be continued to the November 8, 2023 meeting.

Squibb: Motion to continue to the November 8, 2023 meeting. Redmond seconds.
Buchsbbaum takes a roll call vote. Motion carries (5-0).

Squibb: Motion to reconvene the regular meeting. Duffy seconds. Buchsbaum takes a roll call vote. Motion carries (5-0).

4. Reconvene Regular Meeting

5. Requests for Determination of Applicability

- a. New: 4 Cabot Street** – placement of 3 water-based soil borings – City of Beverly

Spidaliere reads the legal notice. Civil Engineer Jack Tabares is present on behalf of the City and shares the site aerial map. Tabares states that the project is to install a pier. The purpose of the pre-construction borings is to take samples of the sediment. All material will be either removed from the site for study or returned to the holes. The Commission discusses that the diameter of the borings will be four inches and 50 feet in depth.

Tabares states that the City is planning to construct a pier on the same footprint as the pier last seen in GIS images in 2017. The collection of samples is to conduct due diligence to design the loadbearing of the pier correctly. Tabares notes that the City will return to the Commission in the future to file the NOI for the pier construction. The Commission discusses that the work will be conducted from a barge at high tide, it will be an all-day project, and there shall be minimal sediment disturbance.

The Commission discusses the following conditions:

1. Data analysis results from the borings shall be provided to the Conservation Agent.
2. The Commission's approval of the borings does not constitute approval of any other projects at the site.
3. Any changes in the locations of the borings shall be submitted for review by the Conservation Agent.
4. A spill kit shall be on-site during work.
5. The applicant shall coordinate with the Harbormaster.
6. The barge shall not bottom out.

The Commission discusses the impact of the barge and any disturbance of sedimentation potentially flowing upriver. Tabares states that the company is expert level in this profession. The casings will not be left in place.

Redmond: Motion to issue a negative two determination for 4 Cabot Street with the conditions as discussed. Squibb seconds. Buchsbaum takes a roll call vote. Motion carries (5-0).

6. Requests for Certificates of Compliance

- a. New: 400 Hale Street, DEP File #5-1346** – construct a new Health Science building with associated walkways, retaining walls, landscaping, and lighting – Endicott College

Chris Broyles of Meridian Associates is present and shares the site plan, stating that the project was completed in Summer 2023 with no deviations from the approved plan. The Commission discusses that the stormwater management plan was submitted in May 2023 along with a comprehensive evaluation of all stormwater facilities on campus to the City Engineering Department. Conservation Field Inspector White conducted a site visit on October 6, 2023, and confirms that the project was compliant.

Duffy: Motion to issue a complete Certificate of Compliance for 400 Hale Street, DEP File #5-1346. Redmond seconds. Buchsbaum takes a roll call vote. Motion carries (5-0).

7. Old/New/Other Business

a. Emergency Certifications

i. 58 South Terrace – emergency foundation repair

Property owner Ralph Puopolo is present and states that most of the foundation of the house has been replaced over time, except for an eight-foot portion that is failing. Puopolo discovered the damage in the course of looking behind two water heaters and a forced hot air system in the crawl space. Puopolo states that it is a block foundation and the repair, once approved, would take no more than one day. Puopolo states that he consulted with City Building Inspector Jim Butler. Puopolo states his safety concerns and is waiting for a consultation with a structural engineer.

Spidaliere states that Chair Bertoni conducted a site visit and confirmed that there is a portion of the foundation that is disintegrated and that it qualifies as an emergency certification as long as a city engineer signs off on it. Spidaliere states that emergency certifications are issued for 30 day durations. Once Jim Butler has approved the work from a Building Department perspective, the Commission may ratify the Emergency Certification. The Commission discusses that the Building Department has not approved the emergency work at this point.

b. Enforcement Matters

i. Cont.: 43 Wood Lane – Eric Ewer

Eric and Suzanne Ewer are present and state that the project complied with all steps and collected all documents required. Ewer states that he pulled a permit (Minor Project Permit) with the City dated October 10, 2021, and summarizes the progress of the project thus far.

Ewer states that the Red Maple was pulled up six years ago. Ewer shares a photo of the site before the work was done. The Commission discusses that a significant amount of fill and gravel was placed within the 100-foot Buffer Zone, so a Notice of Intent (NOI) should have been filed. The Commission discusses the options for dealing with the fill that was installed without the proper permitting. Squibb observes that the hydroseed spray scheduled for the Spring of 2024 will accomplish additional stabilization and erosion protection of the slope. Ewer proposes re-convening in June 2024. The Commission clarifies that it has jurisdiction within the 100-foot Buffer Zone.

Buchsbaum asks if plantings on the slope were discussed and Ewer states he has attempted to stabilize the slope with plantings over the years. Furthermore, Ewer states that he has stopped people from dumping trash over the slope. The Ewers observe that the pond level has risen dramatically over the last 15 years. Squibb states that he favors retroactive permitting, if possible. The Commission discusses that the work was a potential violation that turned into an Enforcement Order, an after-the-fact NOI is needed in order to permit the work, and the majority of the unpermitted work, though not all of it, is on the Ewers' land. Squibb states that he observed a quantity of silt in the pond at the site visit. Ewer states that the erosion has stopped completely since the work.

The Commission discusses that an NOI is needed. Spidaliere agrees to send Ewer the instructions for completing the NOI.

Squibb: Motion to amend the Enforcement Order for 43 Wood Lane with the requirement to file an after-the-fact NOI for the unpermitted work. Duffy seconds. Buchsbaum takes a roll call vote. Motion carries (5-0).

c. Potential Violations

i. Cont.: 531R Hale Street – Loring Trust, Caleb Loring III

Caleb Loring III, Trustee of 531R Hale Street Trust and property owner, is present and states that he contracted Hancock Associates to conduct the wetlands delineation, which was completed October 12, 2023. Hancock conducted a survey and flagged the area. The Commission discusses a site visit. Devin Morse of Hancock Associates will let Loring III know when the site is ready for a site visit, at which time Loring III will contact Spidaliere. Loring III states he hopes to present a plan at the next meeting if possible.

ii. Cont.: 569-573 Hale Street – Peter & Babette Loring

Loring III states that Peter and Babette Loring hope to provide a plan for the Commission's review.

iii. New: 2 Farms Lane – Joshua Pinstein

Property owner Joshua Pinstein is present. Spidaliere states that he was informed on September 19, 2023, by an abutter that there appeared to be tree removal activity at Pinstein's property along the bank of a stream. In response, Spidaliere issued a violation letter on September 20, 2023, directing Pinstein to cease and desist from any further activity within the wetland buffer, to schedule a site visit with White, and to attend the October 17, 2023 meeting. Pinstein contacted Spidaliere on October 12, 2023, to schedule a site visit with White for Monday, October 16, 2023. Pinstein provided photos of the dead tree and White provided pictures of the stump.

Pinstein states that the abutter at 110 Hart Street completed permitted tree clearing and Pinstein planted five-foot Northern White Cedars. Pinstein confirms that the tree was completely dead

and was a safety concern for his children when playing in the yard. Pinstein is a contractor by profession and his employee cut down the dead Norway Spruce. The Commission discusses that Pinstein shall complete a tree removal permit. White conducted a site visit.

d. Minor Project Permits, If Any

i. 10 Palmer Road – Jeffrey Viel

Spidaliere states that the Minor Project Permit is for unpermitted fill in a decommissioned drainage ditch after Bertoni conducted a site visit and recommended the Minor Project Permit. The plans are on file.

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

i. 96 Preston Place – Pond level rise:

Spidaliere states that he conducted a site visit with the Manchester-by-the-Sea Conservation Agent Kristan Farr and observed beaver activity and beaver dams. Spidaliere states that the main concern is occurring on Manchester-by-the-Sea land, but there is a concern with 96 Preston Place in Beverly as the property experiences repeated flooding.

f. Expenditure Approvals

i. Conservation Agent September Mileage

Redmond: Motion to approve the September 2023 mileage reimbursement totaling \$7.94. Duffy seconds. Buchsbaum takes a roll call vote. Motion carries (5-0).

ii. Conservation Field Inspector September Mileage

Squibb: Motion to approve the September 2023 mileage reimbursement totaling \$27.86. Duffy seconds. Buchsbaum takes a roll call vote. Motion carries (5-0).

8. Orders of Conditions, if any

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

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 as far from the wetland resource areas as possible.
3. Prior to the Pre-Construction meeting, all erosion controls shall be installed, by survey, along the line as shown on plans approved by the Commission. The Conservation Agent shall inspect the location of erosion controls as part of the pre-construction site visit.
4. During construction, disturbed soils are to be re-stabilized and re-vegetated as soon as possible.

5. Temporary stockpiles of soil permitted by this Order within the 100-foot Buffer Zone or 200-foot Riverfront Area shall be covered with tarpaulins when not being worked with.
6. Not less than 3 weather-resistant signs or monuments, bearing the following language “Protected Wetland Resource Area - No Disturbance Beyond This Point Per Order of Beverly Conservation Commission” shall be installed equidistant along the edge of the 25-foot No Disturbance Zone. Said signs/monuments shall be installed such that they are not less than 2 feet and no more than 4 feet above grade to ensure that it is visible in the field.
7. The signs/monuments as described in Special Condition #6 above shall be kept in good repair and replaced as necessary. This condition shall survive in perpetuity beyond the issuance of a Certificate of Compliance.
8. The use of timbers pressure treated with A.C.Q. (Alkaline Copper Quats) or the equivalent is permitted as construction material for the deck repairs. Creosote-treated timber is prohibited. Wood preservatives must be dry before any treated wood is used in construction.
9. The maple tree in the front yard is to be maintained in perpetuity and shall be replaced in-kind if it should die.
10. The area where the existing shed and lumber rack are located shall be planted with native perennials for a minimum distance of 20-feet from the fence line.
11. The area between “Mitigation Area A” and the brook shall be left to naturalize.

Redmond: Motion to issue an OOC for 7 Cherry Road, DEP File #5-1399 with the conditions as discussed including general, standard, and perpetual conditions under both the Wetlands Protection Act and the Local Wetlands Ordinance. Squibb seconds. Buchsbaum takes a roll call vote. Motion carries (4-0-1). Cloutman abstains.

9. Approval of minutes
a. September 26, 2023

The members review and offer edits to the September 26, 2023 draft meeting minutes.

Redmond: Motion to accept the September 26, 2023 meeting minutes as amended. Squibb seconds. Buchsbaum takes a roll call vote. Motion carries (4-0-1). Cloutman abstains.

10. Other Business:

The Commission discusses that the next meeting will be held on Wednesday, November 8, 2023, instead of on a Tuesday.

Cloutman introduces himself to the Commission and summarizes his background.

11. Adjournment

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

Meeting adjourns at 10:17 p.m.

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