



CONSERVATION COMMISSION MEETING MINUTES –May 1, 2023

Present: Crystal Kelly – Chair, Carolyn Nielsen- Vice Chair, Bob Hidell, Bob Mosher, Tom Roby, Nina Villanova, and Laurie Freeman, – Commissioners and Loni Fournier- Interim Conservation Officer (ICO)

Absent: none

The remote meeting was held via Zoom with Dial in #929-205-6099, Meeting ID # 894-3062-0818

The meeting was called to order at 7:01 PM.

This meeting is being held remotely as an alternate means of public access pursuant to Chapter 2 of the Acts of 2023 and all other applicable laws temporarily amending certain provisions of the Open Meeting Law. You are hereby advised that this meeting and all communications during this meeting may be recorded by the Town of Hingham in accordance with the Open Meeting Law. If any participant wishes to record this meeting, please notify the chair at the start of the meeting in accordance with M.G.L. c. 30A, § 20(f) so that the chair may inform all other participants of said recording.

Approval of Minutes

April 10, 2023

Motion: Comm’r Nielsen moved to approve the 4/10/23 draft meeting minutes as edited.

Second: Comm’r Roby

Roll Call: Comm’r Nielsen: aye, Comm’r Roby: aye, Comm’r Hidell: aye, and Comm’r Kelly: aye

Certificates of Compliance

11 Steamboat Lane – DEP 034-1327, cont’d from 4/10/23, cont’d to 6/5/23

Applicant: Denise Rhodes

Representative: Rob Carlezon, Grady Consulting LLC

Subsequent to the posting of the agenda, the representative submitted a request to continue the hearing to the Commission’s 6/5/23 meeting.

Motion: Comm’r Hidell moved to continue 11 Steamboat Lane, DEP 034-1327 to 6/5/23.

Second: Comm’r Villanova

Roll Call: Comm’r Kelly: aye, Comm’r Nielsen: aye, Comm’r Roby: aye, Comm’r Villanova: aye, Comm’r Hidell: aye, and Comm’r Freeman: aye

Commission Mosher joined the meeting.

Requests for Determination of Applicability

27 Westmoreland Road

Applicant: Greg O’Leary

Representative: Austin Chartier, McKenzie Engineering Group, Inc.

Proposed: Reconstruction of a garage and front entries

Meeting Documents & Exhibits: Staff memo, Request for Determination of Applicability application, Certified Plot Plan (3/20/23), and Architectural Plans (3/1/23)

Excerpts from the Staff memo: Staff visited the site on 4/20/23. The existing home, garage, and shed sit on fairly level ground. Immediately behind these structures, a gentle slope leads down to the resource area, which was not flagged. Staff took measurements from the existing edge of lawn and confirmed that all of the proposed work is located outside of the 50ft Buffer Zone. Staff observed some yard waste and exposed soils within the 50ft Buffer Zone.

Staff notes that at the time the application was filed, it was not known that the existing shed would be demolished or that a tree would be removed. The submitted plan includes a summary of the existing and proposed impervious area, with an overall increase in 102sft. However, with the removal of the shed (approximately 240sft), the impervious area on the lot will actually decrease by 138sft. The applicant has agreed to plant one native tree or multiple native shrubs for the tree that will be removed.

Austin Chartier from McKenzie Engineering, representing applicant Greg O'Leary, was present on the call, and shared his screen with the plan. He described the proposal; reconstruction of existing garage and upgrade of garage floor, some upgrades to the façade including a reconstructed entry way and front deck, and demolition of a shed and removal of 1 tree. He noted that the proposal would not change drainage and will result in a reduction in impervious. The only excavation is to upgrade the garage floor and installation of sonotubes for the deck.

The ICO commented that on site it was apparent from the edge of lawn where the wetlands began; she measured and all proposed work is outside the 50ft buffer.

The Commission briefly discussed the yard waste, stabilization of the bare area and the tree removal. The ICO pointed out the draft conditions addressing the above items. The Commission had no further questions.

Motion: Comm'r Freeman moved to issue a Negative Determination of Applicability for the proposed work at 27 Westmoreland Road, as shown on the submitted plan(s), and adopt the findings of fact a through c, and conditions 1 through 13 of the staff report.

Findings:

- a. The project meets the submittal requirements for issuance of a Determination of Applicability under the Wetlands Protection Act (M.G.L. c. 131, § 40) and the Town of Hingham Wetland Regulations.
- b. The work described is within an area subject to protection under the Wetlands Protection Act (M.G.L. c. 131, § 40) and the Town of Hingham Wetland Regulations, and will not alter or adversely affect the area subject to protection under the Act or the Regulations.
- c. For the purpose of this filing, the Commission makes no finding as to the exact boundaries of wetland resource areas.

Conditions:

1. Prior to the issuance of a building permit, erosion and sediment controls shall be installed and inspected by an agent of the Commission; straw wattles and/or hay bales shall not be used as a form of erosion and sediment control.
2. Erosion and sediment controls shall remain in place until all disturbed or exposed areas have been stabilized with a final vegetative cover or the Commission has authorized their removal.
3. Prior to the issuance of a building permit, a tree replacement planting plan shall be submitted to the Commission for review and approval. The plan shall include one tree planting or three shrub plantings for the approved tree removal, in accordance with the Commission's Tree Removal and Replacement Policy (adopted 11/4/19). Locations closest to the resource area(s) shall be prioritized for planting. All tree replacement plantings shall be native species; no cultivars, non-native species, or invasive species shall be allowed.
4. All demolition and excavated material shall be properly disposed of at an off-site location.
5. Any on site dumpsters shall not be located within 100 feet of any resource area.
6. Any debris, which falls into any resource area, shall be removed immediately by hand and properly disposed of at an off-site location.
7. All lawn waste, brush, leaves, or other materials dumped in any resource area, including the Buffer Zone, shall be removed by hand and properly disposed of at an off-site location, and the practice discontinued, in accordance with Section 23.6 of the Hingham Wetland Regulations.
8. All tree debris shall be properly disposed of at an off-site location; no chipped or mulched material shall remain on the property.
9. There shall be no stockpiling of soil or other materials within 100 feet of any resource area. All stockpiles that are not used for more than five days shall be covered and surrounded by erosion and sediment controls; straw wattles and/or hay bales shall not be used as a form of erosion and sediment control.
10. No vehicle or other machinery refueling, lubrication, or maintenance, including concrete washout, or storage of fuel or maintenance chemicals shall take place within 100 feet of any resource area.

11. Rooftop runoff from the approved garage shall be directed to lawn or other vegetated areas and not to paved surfaces, and downspouts shall first be directed to splash blocks or crushed stone for scour protection.
12. Prior to the issuance of a Certificate of Occupancy and/or final building sign off, the tree replacement plantings shall be installed in accordance with the final approved planting plan and all exposed/disturbed soils within the 50ft Buffer Zone shall be stabilized with a vegetative cover; reestablishment of lawn is allowed.
13. Before executing any change from the plan(s) of record, the applicant must have the Commission's written approval. Any errors found in the plans or information submitted by the applicant shall be considered as changes. Approval from other Town Agents or Inspectors does not relieve the applicant from obtaining approval from the Commission.

Second: Comm'r Mosher

Roll Call: Comm'r Kelly: aye, Comm'r Nielsen: aye, Comm'r Roby: aye, Comm'r Villanova: aye, Comm'r Hidell: aye, Comm'r Freeman: aye, and Comm'r Mosher: aye

Chair Kelly read the Notice of Intent statement.

Notices of Intent

28 and 32 Union Street – DEP 034-1465, cont'd from 4/10/23

Applicant: Matthew Falconeiri, Falconeiri Construction, Inc.

Representative: Caroline Rees, Merrill Engineers and Land Surveyors, Inc.

Meeting Documents & Exhibits: none

Excerpts from the Staff memo: none

Subsequent to the posting of the agenda, the applicant submitted a request to continue the hearing to the Commission's 5/15/23 meeting. Chair Kelly asked for any members of the public to please hold any comments until 5/15/23.

Motion: Comm'r Freeman moved to continue 28 and 32 Union Street, DEP 034-1465 to 5/15/23.

Second: Comm'r Villanova

Roll Call: Comm'r Kelly: aye, Comm'r Nielsen: aye, Comm'r Roby: aye, Comm'r Villanova: aye, Comm'r Hidell: aye, Comm'r Freeman: aye, and Comm'r Mosher: aye

171 Prospect Street – DEP 034-1464, cont'd from 4/10/23

Applicant: Megan & Wesley Farish

Representative: Gregory Morse, Morse Engineering Co., Inc.

Proposed: Replacement of a septic system

Meeting Documents & Exhibits: Staff memo, Notice of Intent, and Septic System Design Plan (rev. 4/20/23)

Excerpts from the Staff memo: Staff visited the site on 3/20/23. The property is steeply sloped in the northwest corner, but otherwise fairly flat. Staff observed a small patio and hot tub on the eastern side of the property, which were missing from the original plan and not permitted by the Commission. The representative surveyed these improvements and added them to a revised plan. Staff also observed a small amount of yard waste within or near the 50ft Buffer Zone, in close proximity to the proposed septic tanks. The resource area was flagged by a Professional Wetland Scientist in January 2023 and staff agrees with the placement of the flags.

Representative Gregory Morse of Morse Engineering was present on the call, along with homeowner Wesley Farish. G. Morse shared his screen with the Septic system repair plan. He described the wetland resources areas, delineated by South River Environmental, on the 1.3 acre lot; Bordering Vegetated Wetland and riverfront from the Accord Brook. He pointed out the locations of the plumbing connections, new septic tank and leaching field, noting that they are all out of the 50ft buffer and all in lawn area.

The ICO noted that the project was also in the flood zone, elevation 113 and a portion of the system would be in the floodplain. She added that the project is replacing something that is failing and will improve the environmental conditions. The ICO explained that two patios and a hot tub were not previously permitted. The hot tub is salt water based and can be discharged, when needed, outside the 100ft buffer. She explained that Paul Gunn from Morse Engineering had done overall calculations of the 2015 condition when a permit had previously been issued for a project, compared to the current conditions, and it results in only a 2sf increase. She added that due to the very small amount,

she had not included a mitigation condition for it, the other areas will be restored, and proper disposal of the hot tub water will give room for water to drain before reaching the wetland area.

Comm'r Nielsen asked for clarification on the flood zone location and the proposed grading. G. Morse pointed it out on the plan, explaining it follows the 113 contour, is existing lawn and will be returned to lawn. He added that the top half of the septic system is below ground and the bottom half of the leaching field is mounded up about 6 inches, and is a negligible impact to the floodplains ability to receive floodwaters. Responding to Comm'r Nielsen's question, G. Morse confirmed that with the grading the edge of the flood plain would be moving slightly. Responding to Comm'r questions, G. Morse confirmed that they are replacing a failed system, stated that soils were a Loamy Sand, and that access would be down the side of the house; the components are plastic and suitable for a mini-excavator. The ICO stated that the work was contained, an erosion control mulch log will work, and it would be a short disturbance timeframe. G. Morse stated that it would be typically a week for a project like this. Brief discussion regarding the draft conditions followed.

Chair Kelly invited any members of the public to comment relative to 171 Prospect Street. No members of the public expressed a wish to comment.

Motion: Comm'r Hidell moved to issue an Order of Conditions for the proposed work at 171 Prospect Street (DEP 034-1464), as shown on the submitted plan(s), and adopt the findings of fact a through c, and special conditions 21 through 40 of the staff report.

Findings:

- a. The project meets the submittal requirements for issuance of an Order of Conditions under the Wetlands Protection Act (M.G.L. c. 131, § 40) and the Town of Hingham Wetland Regulations.
- b. The work described is within an area subject to protection under the Wetlands Protection Act (M.G.L. c. 131, § 40) and the Town of Hingham Wetland Regulations, and will not alter or adversely affect the area subject to protection under the Act or the Regulations.
- c. For the purpose of this filing, the Commission confirms the delineation of Bordering Vegetated Wetland flags WF 3 to WF 13, but makes no finding as to the exact boundaries of other wetland resource areas.

Special Conditions:

21. The applicant shall notify the Commission, in writing, of the name, address, and telephone number(s) of the project supervisor or contractor who shall be responsible for ensuring compliance with this Order and by telephone or writing, of the commencement of work on the site, at least 48 hours in advance of said work.
22. This Order shall be included in all construction contracts and subcontracts dealing with the work and shall supersede all other contract requirements.
23. Prior to the start of any excavation or construction, there shall be a pre-construction conference on the site between the project supervisor or contractor responsible for the work and an agent of the Commission to ensure that the requirements of this Order are understood.
24. Prior to the start of any excavation or construction, erosion and sediment controls shall be installed, as shown on the final approved plan(s), and inspected by an agent of the Commission; straw wattles and/or hay bales shall not be used as a form of erosion and sediment control.
25. Erosion and sediment controls shall remain in place until all disturbed or exposed areas have been stabilized with a final vegetative cover or the Commission has authorized their removal.
26. The project supervisor or contractor responsible for the work shall have a copy of this Order available on the site at all times.
27. During all phases of construction, all disturbed or exposed areas shall be brought to a finished grade and either a) loamed and seeded for permanent stabilization, or b) stabilized in another way approved by the Commission.
28. All excavated material shall be properly disposed of at an off-site location.
29. Any on site dumpsters shall not be located within 100 feet of any resource area.
30. Any debris, which falls into any resource area, shall be removed immediately by hand and properly disposed of at an off-site location.

31. All lawn waste, brush, leaves, or other materials dumped in any resource area, including the Buffer Zone, shall be removed by hand and properly disposed of at an off-site location, and the practice discontinued, in accordance with Section 23.6 of the Hingham Wetland Regulations.
32. There shall be no stockpiling of soil or other materials within 50 feet of any resource area. All stockpiles that are not used for more than five days shall be covered and surrounded by erosion and sediment controls; straw wattles and/or hay bales shall not be used as a form of erosion and sediment control.
33. Issuance of these conditions does not in any way imply or certify that the site or downstream areas will not be subject to flooding, storm damage, or any other form of damage due to wetness.
34. Any dewatering activities on the project in which water will be released into any resource area or storm drain shall make use of a stilling pond or similar device to remove sediment before the water is released. Prior to construction, plans for the stilling pond or similar device shall be submitted to the Commission for review and approval.
35. No vehicle or other machinery refueling, lubrication, or maintenance, including concrete washout, or storage of fuel or maintenance chemicals shall take place within 50 feet of any resource area.
36. At the end of each workday, the project supervisor or contractor responsible for the work shall mechanically or manually sweep sediments from all paved surfaces, unless tracking and sediment is not evident.
37. Before executing any change from the plan(s) of record, the applicant must have the Commission's written approval. Any errors found in the plans or information submitted by the applicant shall be considered as changes. Approval from other Town Agents or Inspectors does not relieve the applicant from obtaining approval from the Commission.
38. There shall be no discharge of any hot tub water or backwash within 100 feet of any resource area. This condition shall apply in **perpetuity** and shall not expire with the issuance of a Certificate of Compliance.
39. The applicant shall apply for a Certificate of Compliance as soon as all conditions of this Order have been fulfilled and prior to the expiration of this Order. If all conditions cannot be fulfilled prior to the expiration of this Order, the applicant shall contact the Commission in writing to apply for an extension at least thirty days prior to the expiration date.
40. The applicant shall submit an "as built" plan to the Commission as part of the Request for Certificate of Compliance. The plan shall be signed by the professional engineer of record, who shall certify that the work has been done in accordance with the final approved plan(s) and this Order.

Second: Comm'r Villanova

Roll Call: Comm'r Kelly: aye, Comm'r Nielsen: aye, Comm'r Roby: aye, Comm'r Villanova: aye, Comm'r Hidell: aye, Comm'r Freeman: aye, and Comm'r Mosher: aye

6 & 8 Berkley Circle – DEP 034-XXXX

Applicant: Joan & Joseph Iovino

Proposed: Invasive Species Management

Meeting Documents & Exhibits: Staff memo, Notice of Intent for Ecological Restoration, and Invasive Plant Management Plan (1/5/23)

Excerpts from the Staff memo: This filing is an effort to continue invasive species management work that took place from 2017-2020 at the same properties under an Order of Conditions issued by the Commission. At that time, only common reed (*Phragmites australis*) was targeted. The old Order expired and a Certificate of Compliance was issued in 2021. While the original effort was considered a success, minimal management work has occurred since 2020. As noted in the last and current management plans, "successful invasive plant management requires a serious commitment and will need to be ongoing to protect the landowner's investment." The current proposal includes similar methods to the last management plan and adds the control of large gray willow/rusty willow.

Staff notes that for a Restoration Order of Conditions, the Commission cannot apply any special conditions, beyond what the regulations state in 310 CMR 10.14, and is limited to referencing the approved plan(s) and specifications. So, it is important that the current management plan include all of the information necessary to evaluate and monitor the proposed work. Staff also notes that as of 4/28/23, a DEP file number had yet to be issued for the project.

Applicant Joan Iovino of 8 Berkley Circle, was present on the call and gave a brief history of the prior phragmites control work that encompasses both 6 Berkley Circle and 8. The prior work had allowed native species to move in and

the water was flowing. Since, that work ended when the OOC expired, and was not extended, the phragmites have moved in along with gray willow. A new management plan to remove them has been formulated.

The ICO pointed out the questions and suggested edits she'd included in the staff memo and sent to the author. The author had since contacted the office to state that all but one had been taken care of. The ICO explained that with a restoration order, the Commission does not have the ability to include special conditions, and so it is important that everything be included in the plan; the plan functions as special conditions. She noted that DEP had not yet issued a DEP number and the Commission should have a revised management plan to consider at the next meeting.

The Commission expressed their appreciation for the willingness to undertake invasive species control, particularly phragmites.

Chair Kelly invited any members of the public to comment. No members of the public expressed a wish to comment.

Motion: Comm'r Mosher moved to continue 6 & 8 Berkley Circle to May 15, 2023.

Second: Comm'r Nielsen

Roll Call: Comm'r Kelly: aye, Comm'r Nielsen: aye, Comm'r Roby: aye, Comm'r Villanova: aye, Comm'r Hidell: aye, Comm'r Freeman: aye, and Comm'r Mosher: aye

189 Leavitt Street – DEP 034-1466

Applicant: Mass Green Developer, LLC

Representative: Jeffrey Hassett, Morse Engineering Co., Inc.

Meeting Documents & Exhibits: Staff memo, Notice of Intent, Proposed Mitigation Plan & Conservation Site Plan (4/27/23)

Excerpts from the Staff memo: Staff visited the site on 4/20/23. The property slopes gently from north to south, with the existing house and a short stone retaining wall located very close to the resource area (approximately 20ft and 0ft, respectively). A Professional Wetland Scientist flagged the resource area in January 2023. Staff reviewed the A-series flags and agrees with their placement.

Work on the property, including the proposed additions, was underway and within the limit of work, the majority of the vegetation had been removed. A silt fence was improperly installed along three sides of the property. At the request of staff, and within one day, the applicant installed a 12" mulch log in the same location as the silt fence.

Greg Morse of Morse Engineering, representing property owner Bruno Xavier of Mass Green Developer LLC, was present on the call and shared his screen with the plan. He described the 3.3 acre lot, explaining that Brad Holmes of ECR had delineations the Bordering Vegetated Wetland, and pointed out the buffer zones.

G. Morse described the proposal; the addition of a covered porch on the front of the house, paving of the gravel driveway, replacement of an existing brick patio at the rear with a pervious patio, removal of an existing bumpout and deck at the back to be replaced with a new deck and set of stairs, and installation of stone landscape stairs next to the garage down to the back yard area. A sport court initially proposed was withdrawn from the plan.

Describing mitigation, G. Morse stated that crushed stone trenches along the driveway to intercept driveway runoff, at the rear of the house the gutter would be connected to drainpipes to 3 proposed infiltrators, a lot of lawn at the back along the rear and side will be eliminated; currently the existing lawn goes right up to the wetlands. He stated that there is a very small boulder wall that serves as the delineation of the existing lawn to the wetlands. G. Morse pointed out a 1989sf mitigation planting area, designed by Brad Homes of ECR, noting that it provides a greater setback to the Bordering Vegetated Wetland from the lawn area and pointed out the conservation mitigation table on the plan. A 2-2.5ft retaining wall is proposed to 'mitigate' the grading and further help in the delineation of the mitigation area. Seven conservation posts will be installed to prevent any future encroachment.

The ICO explained that when she went to do the site visit, a lot of work was underway and erosion controls were not installed correctly. The owner had implemented infiltrations and clearing along Leavitt Street had happened. The ICO explained that there had been a disconnect with what was approved on the plans versus what was supplied to the Building Department, however the owner was very responsive and all was corrected quickly. Three new trees are proposed along the frontage as replacements. Fortunately, the site was stabilized ahead of rain.

The ICO noted that edits had been made to improve the plan. She added that, in the interest of time, she had only reviewed the A series of wetland flags as the B series were further south, and therefore had included a draft finding reflecting that.

The Commission briefly discussed the work that had started but felt the proposal was straightforward and that the applicant had worked well with staff regarding the kinks. Chair Kelly felt the staff memo and the ICO's comments alleviated her concerns.

Chair Kelly invited any members of the public to comment relative to 189 Leavitt Street. No members of the public expressed a wish to comment.

Motion: Comm'r Freeman moved to issue an Order of Conditions for the proposed work at 189 Leavitt Street (DEP 034-1466), as shown on the submitted plan(s), and adopt the findings of fact a through c, and special conditions 21 through 50 of the staff report.

Findings:

- a. The project meets the submittal requirements for issuance of an Order of Conditions under the Wetlands Protection Act (M.G.L. c. 131, § 40) and the Town of Hingham Wetland Regulations.
- b. The work described is within an area subject to protection under the Wetlands Protection Act (M.G.L. c. 131, § 40) and the Town of Hingham Wetland Regulations, and will not alter or adversely affect the area subject to protection under the Act or the Regulations.
- c. For the purpose of this filing, the Commission confirms the delineation of Bordering Vegetated Wetland flags WF A1 to WF A13, but makes no finding as to the exact boundaries of other wetland resource areas.

Special Conditions:

21. The applicant shall notify the Commission, in writing, of the name, address, and telephone number(s) of the project supervisor or contractor who shall be responsible for ensuring compliance with this Order and by telephone or writing, of the commencement of work on the site, at least 48 hours in advance of said work.
22. This Order shall be included in all construction contracts and subcontracts dealing with the work and shall supersede all other contract requirements.
23. Prior to the issuance of a building permit, there shall be a pre-construction conference on the site between the project supervisor or contractor responsible for the work and an agent of the Commission to ensure that the requirements of this Order are understood.
24. Prior to the issuance of a building permit, erosion and sediment controls shall be inspected by an agent of the Commission; straw wattles and/or hay bales shall not be used as a form of erosion and sediment control.
25. Erosion and sediment controls shall remain in place until all disturbed or exposed areas have been stabilized with a final vegetative cover or the Commission has authorized their removal.
26. Prior to the issuance of a building permit, all areas on the site designed to infiltrate stormwater shall be surrounded by construction fencing to prevent vehicles and equipment from compacting the soils.
27. The infiltration area(s) shall be field marked and protected from vehicles and other equipment until all construction is complete.
28. The project supervisor or contractor responsible for the work shall have a copy of this Order available on the site at all times.
29. During all phases of construction, all disturbed or exposed areas shall be brought to a finished grade and either a) loamed and seeded for permanent stabilization, or b) stabilized in another way approved by the Commission.
30. All demolition and excavated material shall be properly disposed of at an off-site location.
31. Any on site dumpsters shall not be located within 50 feet of any resource area.
32. Any debris, which falls into any resource area, shall be removed immediately by hand and properly disposed of at an off-site location.
33. There shall be no stockpiling of soil or other materials within 50 feet of any resource area. All stockpiles that are not used for more than five days shall be covered and surrounded by erosion and sediment controls; straw wattles and/or hay bales shall not be used as a form of erosion and sediment control.
34. Issuance of these conditions does not in any way imply or certify that the site or downstream areas will not be subject to flooding, storm damage, or any other form of damage due to wetness.
35. Any dewatering activities on the project in which water will be released into any resource area or storm drain shall make use of a stilling pond or similar device to remove sediment before the water is released. Prior to

construction, plans for the stilling pond or similar device shall be submitted to the Commission for review and approval.

36. No vehicle or other machinery refueling, lubrication, or maintenance, including concrete washout, or storage of fuel or maintenance chemicals shall take place within 50 feet of any resource area.
37. At the end of each workday, the project supervisor or contractor responsible for the work shall mechanically or manually sweep sediments from all paved surfaces, unless tracking and sediment is not evident.
38. Rooftop runoff from the entire house, including the garage and approved front porch addition, shall be infiltrated on site, using either drywells, infiltration chambers, drip edge stone trenches, or an alternative method approved in advance by the Commission.
39. Driveway runoff shall be infiltrated on site, using either stone infiltration trenches, trench drains, or an alternative method approved in advance by the Commission. The driveway shall be properly pitched to direct runoff to be infiltrated.
40. The approved patio shall be constructed to be permeable, with permeable joints and an appropriate permeable subbase. The project supervisor or contractor responsible for the work shall submit documentation to the Commission confirming that the patio has been installed to be permeable in accordance with the final approved plan(s) and manufacturer specifications.
41. The area under the approved deck shall be treated with a minimum of three inches of $\frac{3}{4}$ "-1 $\frac{1}{2}$ " crushed stone and there shall be spacing between the deck boards to allow for the passage of runoff.
42. All work on the approved modular concrete block wall, located at the rear of the property, shall take place from the upland side of the wall. All equipment and materials necessary for the work shall access and be delivered to the upland side of the wall. No impacts to the resource area or mitigation area plantings shall be allowed.
43. The tree replacement plantings (3) and mitigation area plantings shall be installed, and seeding completed, in accordance with the final approved plan(s).
44. Before executing any change from the plan(s) of record, the applicant must have the Commission's written approval. Any errors found in the plans or information submitted by the applicant shall be considered as changes. Approval from other Town Agents or Inspectors does not relieve the applicant from obtaining approval from the Commission.
45. It is the sole responsibility of the owner of record to maintain drainage structures at all times. The property owner is also responsible for retaining records of the maintenance and cleaning for review by the Commission. This condition shall apply in **perpetuity** and shall not expire with the issuance of a Certificate of Compliance.
46. The mitigation planting area shall be maintained with native plantings, or be allowed to naturally revegetate with native species following planting and remain as naturally vegetated, and shall not be mown or otherwise maintained. This condition shall apply in **perpetuity** and shall not expire with the issuance of a Certificate of Compliance.
47. The seven conservation posts established along the northwestern limit of the mitigation planting area shall be maintained in their approved locations. This condition shall apply in **perpetuity** and shall not expire with the issuance of a Certificate of Compliance.
48. Prior to the issuance of a Certificate of Compliance, the tree replacement plantings (3) shall survive at least two full growing seasons at a 100% survival rate and the mitigation area plantings shall survive at least two full growing seasons with a minimum of 75% survival rate. If these survival rates are not achieved, replacement plantings of the same species shall be made by the applicant.
49. The applicant shall apply for a Certificate of Compliance as soon as all conditions of this Order have been fulfilled and prior to the expiration of this Order. If all conditions cannot be fulfilled prior to the expiration of this Order, the applicant shall contact the Commission in writing to apply for an extension at least thirty days prior to the expiration date.
50. The applicant shall submit an "as built" plan to the Commission as part of the Request for Certificate of Compliance. The plan shall be signed by the professional engineer of record, who shall certify that the work has been done in accordance with the final approved plan(s) and this Order.

Second: Comm'r Hidell

Roll Call: Comm’r Kelly: aye, Comm’r Nielsen: aye, Comm’r Roby: aye, Comm’r Villanova: aye, Comm’r Hidell: aye, Comm’r Freeman: aye, and Comm’r Mosher: aye

213 & 215 Cushing Street – DEP 034-1459, cont’d from 4/10/23

Applicant: James Bristol, WV Cushing, LLC

Representative: Chris Mulrey, Crocker Design Group, LLC

Meeting Documents & Exhibits: Staff memo and Definitive FRD Plan Set (4/24/23)

Excerpts from the Staff memo: This hearing is continued from the 4/10/23 Commission meeting in order to research and draft one or more conditions related to a surety bond (see draft conditions #33 and #63, which have been reviewed by Town Counsel). In the meantime, the applicant submitted revised plans, dated 4/24/23, to address the Planning Board’s and their peer review engineer’s comments. No substantive changes were made within the Commission’s jurisdiction.

Representative Chris Mulrey was present on the call, noted that Jim Bristol of WV Cushing LLC was not available, and that he had permission to speak on WV Cushing LLC’s behalf. C. Mulrey explained that after coordination with the ICO, a Certificate of Compliance performance bond was decided upon, rather than a tree bond. He noted that the ICO had suggested a \$35,000 bond and asked if the Commission had any comments or discussion regarding that.

Chair Kelly commented that one reason for the continuance was for the applicant and ICO to work out an appropriate amount and she was in agreement that it would be much simpler to have a performance bond. She had reviewed the modifications to the conditions and felt they reflected the Commission’s discussion at the prior meeting.

The ICO shared the draft conditions to the screen and asked the Commission to review the language of draft condition #63. The Commission discussed the language in the parentheses and, although understanding what was intended, were in agreement that it would be more straightforward to remove the language in the parentheses altogether.

Chair Kelly invited any members of the public to comment relative to 213 and 215 Cushing Street. No members of the public expressed a wish to comment.

Motion: Comm’r Mosher moved to issue an Order of Conditions for the proposed work at 213 and 215 Cushing Street (DEP 034-1459), as shown on the submitted plan(s), and adopt the findings of fact a through c, and special conditions 21 through 63 of the staff report as amended.

(conditions below reflect the amendment to condition #63)

Findings:

- a. The project meets the submittal requirements for issuance of an Order of Conditions under the Wetlands Protection Act (M.G.L. c. 131, § 40) and the Town of Hingham Wetland Regulations.
- b. The work described is within an area subject to protection under the Wetlands Protection Act (M.G.L. c. 131, § 40) and the Town of Hingham Wetland Regulations, and will not alter or adversely affect the area subject to protection under the Act or the Regulations.
- c. For the purpose of this filing, the Commission confirms the delineation of Bordering Vegetated Wetland flags WF-START to WF-4, WF-23, and WF-25 to WF-43 and Vernal Pool Flags VP1 to VP13, but makes no finding as to the exact boundaries of other wetland resource areas.

Special Conditions:

21. The applicant shall notify the Commission, in writing, of the name, address, and telephone number(s) of the project supervisor or contractor who shall be responsible for ensuring compliance with this Order and by telephone or writing, of the commencement of work on the site, at least 48 hours in advance of said work.
22. This Order shall be included in all construction contracts and subcontracts dealing with the work and shall supersede all other contract requirements.
23. Prior to the start of any excavation or construction, there shall be a pre-construction conference on the site between the project supervisor or contractor responsible for the work and an agent of the Commission to ensure that the requirements of this Order are understood.
24. Prior to the start of any excavation or construction, erosion and sediment controls shall be installed, as shown on the final approved plan(s), and inspected by an agent of the Commission; straw wattles and/or hay bales shall not be used as a form of erosion and sediment control. Additional erosion and/or damage prevention controls

may be required if deemed necessary by the Commission or an agent of the Commission. Extra erosion controls shall be available on site and stored in an unexposed location or covered.

25. Erosion and sediment controls shall remain in place until all disturbed or exposed areas have been stabilized with a final vegetative cover or the Commission has authorized their removal.
26. Prior to the start of any excavation or construction, the two catch basins located on Cushing Street and shown on the final approved plan(s) shall be protected with silt sacks.
27. Silt sacks shall be maintained and regularly cleaned of sediments until stabilization is achieved or the Commission has authorized their removal.
28. Prior to the start of any excavation or construction, revised landscape plans (sheets L1 and L2) shall be submitted to the Commission for review and approval. The revised plans shall include 1) native tree species within the 100ft Buffer Zone (no cultivars or non-native species); 2) updated "Conservation Notes" to reflect the applicable conditions of this Order; and 3) a unique symbol or color for the area(s) where the proposed "meadow seed mix" will be applied on the property.
29. Prior to the start of any excavation or construction, a revised Long-Term Stormwater Operation & Maintenance Plan shall be submitted to the Commission for review and approval. The revised plan shall include 1) updated guidance for fertilizers and de-icing chemicals (snow removal) to comply with conditions #55 and #56 and 2) new guidance on the maintenance of the infiltration basin, which will be seeded with a native meadow mix and require no more than annual mowing for maintenance.
30. Prior to the start of any excavation or construction, copies of all federal, state, and local permits, certifications, and approvals, as applicable, shall be submitted to the Commission for review.
31. Prior to the start of any excavation or construction, one electronic copy and one hard copy of all revised project plans, stormwater management reports, and operation and maintenance documents, which may be required as part of Site Plan Review with the Hingham Planning Board, shall be submitted to the Commission for review.
32. One month prior to the start of any excavation or construction, a Stormwater Pollution Prevention Plan (SWPPP), construction phasing plans, and all other supporting material shall be submitted to the Commission for review and approval. The submitted documents will be peer reviewed (authorized under M.G.L. Chapter 44, §53G) and as such, may require additional consultant fees from the applicant. All outstanding bills for the peer review must be paid in full before work may proceed.
33. Prior to the start of any excavation or construction, the applicant shall deposit \$35,000 cash into a non-interest bearing account held by the Town of Hingham to ensure that conditions 1-54 and 60-63 of this Order are fulfilled. These funds shall only be released upon the recording of a full Certificate of Compliance. If the applicant fails to fulfill all of said conditions within six years from the date of issuance for this Order, including the original three-year term of this Order and an extension of up to three years, if needed, then said funds shall be forfeited to the Town of Hingham and may be used by the Town of Hingham to complete said work and/or for any other public purpose at the Town of Hingham's sole discretion.
34. The project supervisor or contractor responsible for the work shall have a copy of this Order available on the site at all times.
35. The project supervisor or contractor responsible for the work shall follow the final approved SWPPP during all phases of construction. A copy of this document shall be kept on site at all times.
36. During all phases of construction, all disturbed or exposed areas shall be brought to a finished grade and either a) loamed and seeded for permanent stabilization, or b) stabilized in another way approved by the Commission.
37. All excavated material shall be properly disposed of at an off-site location.
38. Any on site dumpsters shall not be located within 100 feet of any resource area.
39. Any debris, which falls into any resource area, shall be removed immediately by hand and properly disposed of at an off-site location.
40. All manmade materials dumped in the Buffer Zone, in particular near test pit #302 (TP #302), shall be removed by hand and properly disposed of at an off-site location in accordance with Section 23.6 of the Hingham Wetland Regulations.
41. All tree debris shall be properly disposed of at an off-site location; no chipped or mulched material shall remain on the property.

42. Immediately following the approved tree removal work, all areas on the site designed to infiltrate stormwater and wastewater shall be surrounded by construction fencing, or equivalent, to prevent vehicles and equipment from compacting the soils, as shown on the final approved plan(s). The infiltration area(s) shall be field marked and protected from vehicles and other equipment until all construction is complete.
43. There shall be no stockpiling of soil or other materials within 100 feet of any resource area. All stockpiles that are not used for more than five days shall be covered and surrounded by erosion and sediment controls; straw wattles and/or hay bales shall not be used as a form of erosion and sediment control.
44. Issuance of these conditions does not in any way imply or certify that the site or downstream areas will not be subject to flooding, storm damage, or any other form of damage due to wetness.
45. Any dewatering activities on the project in which water will be released into any resource area or storm drain shall make use of a stilling pond or similar device to remove sediment before the water is released. Prior to construction, plans for the stilling pond or similar device shall be submitted to the Commission for review and approval.
46. No vehicle or other machinery refueling, lubrication, or maintenance, including concrete washout, or storage of fuel or maintenance chemicals shall take place within 100 feet of any resource area.
47. The temporary construction access and vehicle tracking pad shall be properly maintained during construction and shall be removed following construction and the area restored to pavement or lawn/landscaping, as may be applicable, as shown on the final approved plan(s).
48. At the end of each workday, the project supervisor or contractor responsible for the work shall mechanically or manually sweep sediments from all paved surfaces, unless tracking and sediment is not evident.
49. Stormwater Best Management Practices shall be installed and stormwater runoff shall be managed in accordance with the final approved plan(s). The installation/construction of the infiltration basin, conveyance swale, drywells, and other drainage system components shall be witnessed by a Registered Professional Engineer (Civil). The engineer shall submit documentation to the Commission stating that the installation/construction of these components was conducted properly (in compliance with all conditions herein) and in accordance with the final approved plan(s) and manufacturer specifications.
50. Rooftop runoff from the approved dwellings within the Commission's jurisdiction (#3 and #4 as shown on the final approved plan(s)) shall be infiltrated on site using drywells as shown on the final approved plan(s) or an alternative method approved in advance by the Commission.
51. The approved patios located at dwellings #3 and #4, as shown on the final approved plan(s), shall be constructed to be permeable, with permeable joints and an appropriate permeable subbase. The project supervisor or contractor responsible for the work shall submit documentation to the Commission confirming that the patios have been installed to be permeable in accordance with manufacturer specifications.
52. The tree replacement plantings (65) shall be installed, and meadow seeding completed, in accordance with the final approved landscape plan(s).
53. A minimum of two Vernal Pool notification and/or education signs shall be installed along the approved natural open space trail in locations closest to the Vernal Pool. The exact design, including the material, size, and text, and installation location of the signs shall be determined in cooperation with, and reviewed and approved by, an agent of the Commission, prior to the installation of the signs.
54. Before executing any change from the plan(s) of record, the applicant must have the Commission's written approval. Any errors found in the plans or information submitted by the applicant shall be considered as changes. Approval from other Town Agents or Inspectors does not relieve the applicant from obtaining approval from the Commission.
55. The use of de-icing chemicals, except for calcium magnesium acetate (CMA) or other alternative approved by the Commission, shall be prohibited on this property because of its proximity to Plymouth River, which is a state-listed 303(d) impaired waterway, its location in a Wellhead Protection Area, and the importance of the surrounding resource areas to the groundwater/surface water supply and water quality. This condition shall apply in **perpetuity** and shall not expire with the issuance of a Certificate of Compliance.
56. The use of pesticides, herbicides, fungicides, and fertilizers shall be prohibited on this property because of its proximity to Plymouth River, which is a state-listed 303(d) impaired waterway, its location in a Wellhead Protection Area, and the importance of the surrounding resource areas to the groundwater/surface water

supply and water quality. This condition shall apply in **perpetuity** and shall not expire with the issuance of a Certificate of Compliance.

57. The maintenance and repair of all stormwater management structures and components shall be the responsibility of the owner of record. The design capacity, stormwater management treatment capacity, and structural integrity of these facilities must be maintained and inspected as detailed in the Long-Term Stormwater Operation & Maintenance Plan, prepared by Crocker Design Group, LLC and dated March 14, 2023, which will be revised as part of condition #29 and may be further revised as part of Site Plan Review with the Hingham Planning Board. The property owner is also responsible for retaining records of the maintenance and cleaning for review by the Commission. This condition shall apply in **perpetuity** and shall not expire with the issuance of a Certificate of Compliance.
58. The natural open space trail shall be minimally maintained. Routine cleanup of fallen branches, or other obstructions to the trail, and manmade debris are allowed. Any proposed alteration of the trail, including, but not limited to, its surface and location, must be approved in writing by the Commission. This condition shall apply in **perpetuity** and shall not expire with the issuance of a Certificate of Compliance.
59. The Vernal Pool notification and/or education signs established along the approved natural open space trail shall be maintained in their approved locations. This condition shall apply in **perpetuity** and shall not expire with the issuance of a Certificate of Compliance.
60. Prior to the issuance of a Certificate of Compliance, the tree replacement plantings (65) shall survive at least two full growing seasons with a minimum of 75% survival rate. If a 75% survival rate is not achieved, replacement plantings of the same species shall be made by the applicant.
61. The applicant shall apply for a Certificate of Compliance as soon as all conditions of this Order have been fulfilled and prior to the expiration of this Order. If all conditions cannot be fulfilled prior to the expiration of this Order, the applicant shall contact the Commission in writing to apply for an extension at least thirty days prior to the expiration date.
62. The applicant shall submit an “as built” plan to the Commission as part of the Request for Certificate of Compliance. The plan shall be signed by the professional engineer of record, who shall certify that the work has been done in accordance with the final approved plan(s) and this Order.
63. The applicant shall record the Certificate(s) of Compliance at the Plymouth County Registry of Deeds and provide proof of said recording to the Commission. Upon receipt of the recording information for a full Certificate of Compliance, the \$35,000 held in a non-interest bearing account with the Town of Hingham shall be returned to the applicant.

Second: Comm’r Freeman

Roll Call: Comm’r Kelly: aye, Comm’r Nielsen: aye, Comm’r Roby: aye, Comm’r Villanova: aye, Comm’r Hidell: aye, Comm’r Freeman: aye, and Comm’r Mosher: aye

Other Business:

- a. Discussion and possible vote regarding constructed floats, CCA, and next steps for approved dock system at Barnes Wharf (DEP 034-1390), con’td from 4/10/23

Meeting Documents & Exhibits:

Town Engineer J.R.Frey was present on the call, explained that they had received communication from the Division of Marine Fisheries (DMF) on the use of CCA treated timber in the float location, had forwarded it on to the Commission and was seeking the Commission’s opinion on how to proceed. Chair Kelly stated that she had reviewed the opinion from DMF and felt it helpful, and the floats could be left as constructed, as the DMF opinion suggests it is safe for the public as well as for marine life.

Comm’r Nielsen stated that she is not an expert on toxicology but can read a scientific report and is willing to follow the advice from DMF; she stated that they are a credible group and if they say that it is not a danger, she would be comfortable approving it. The Commission was in agreement. The ICO suggested the Commission formally vote for the field change and could note the fact that it is a commercial float system, meaning that it didn’t need to meet that regulation to begin with, and that additional information from DMF relieves concern regarding environmental damage. Further discussion followed regarding the language of the motion. The Commission concluded that it would be approving the field change to allow Barnes Wharf as constructed with CCA, based on guidance from DMF and the reduced values over usual commercial applications.

Vote to approve a field change.

Motion: Comm'r Hidell moved to approve the field change for Barnes Wharf (DEP 034-1390) as discussed.

Second: Comm'r Villanova

Roll Call: Comm'r Kelly: aye, Comm'r Nielsen: aye, Comm'r Roby: aye, Comm'r Villanova: aye, Comm'r Hidell: aye, Comm'r Freeman: aye, and Comm'r Mosher: aye

b. Discussion and possible vote to amend Section 23.4 of the HWR to prohibit boat lifts, with public comment

The ICO shared the screen with Town Counsel's draft of changes to Section 23.4, explained that it was deemed the simplest way to accomplish the Commission's goal of putting a hold on boat lifts until additional research can be done, cleans up some dissimilar but not conflicting definitions, and improve consistency. She scrolled through the document onscreen and reviewed the proposed changes.

Chair Kelly expressed her approval noting that it gives the Commission time for research for a comprehensive overhaul of the dock and pier revisions which the Commission targets towards the end of summer. The Commission and ICO discussed the changes and noted other areas of regulations needing work such as language conflicts regarding pier height. Chair Kelly commented that the focus of the current changes before the Commission tonight was solely on boat lifts, that comprehensive regulation changes are needed, and the Commission can pull them all together at the end of the summer.

Brief discussion followed regarding the one boat lift that was recently approved and whether or not the proposed prohibition on boat lift should include language that the Commission will be discussing them. It was noted that aspect will be reflected in the minutes, that the one boat lift was allowed because the Commission had to with the current regulations, and also that not everyone voted in favor of the boat lift. If at the end of the summer when the Commission revisits the matter, and chooses to allow them, then they can do that. Comm'r Nielsen commented that there had never been a regulation written that someone hasn't tried to come in and interpret differently.

Chair Kelly invited any members of the public to comment relative to the vote to prohibit boat lifts.

Jeff Greenman, 41 Jarvis Avenue, was present on the call, explained that he was not commenting on boat lifts but asked for clarification that the regulations were going to be reviewed at the end of summer. Chair Kelly confirmed that the Commission will be looking at all the regulations, doing research, over the summer and then have public hearings, at the end of the summer or early fall, to allow the public to comment on proposed changes.

J. Greenman explained he'd been to several meetings, has the floating dock, summer is coming and needs guidance on what he needs to do to get it out there; does he need to have it dismantled and put together again per the specifications that were approved. Chair Kelly noted that they had heard J. Greenman's comments on the float before, but that this item is not on the agenda and due to open meeting law, the Commission cannot discuss it. The Commission heard J. Greenman speak at a meeting a few months ago and they are still in the same spot. The Commission will consider the matter when they open up their regular discussion on the regulations.

No other members of the public expressed a wish to comment.

The Commission had no further comments on the proposal to prohibit boat lifts.

Motion: Comm'r Nielsen moved to adopt the proposed revisions of Section 23.4 of the Hingham Wetland Regulations.

Second: Comm'r Villanova

Roll Call: Comm'r Kelly: aye, Comm'r Nielsen: aye, Comm'r Roby: aye, Comm'r Villanova: aye, Comm'r Hidell: aye, Comm'r Freeman: aye, and Comm'r Mosher: aye

Motion: Comm'r Nielsen moved to adopt the proposed revision of Section 6 of the Hingham Wetland Regulations.

Second: Comm'r Villanova

Roll Call: Comm'r Kelly: aye, Comm'r Nielsen: aye, Comm'r Roby: aye, Comm'r Villanova: aye, Comm'r Hidell: aye, Comm'r Freeman: aye, and Comm'r Mosher: aye

Adjourn

Motion: Comm'r Mosher moved to adjourn the meeting at 8:25 pm.

Second: Comm'r Nielsen

Roll Call: Comm'r Kelly: aye, Comm'r Nielsen: aye, Comm'r Roby: aye, Comm'r Villanova: aye, Comm'r Hidell: aye, Comm'r Freeman: aye, and Comm'r Mosher: aye

Submitted, _____
Sylvia Schuler, Administrative Assistant

Approved on May 15, 2023

This meeting was recorded. To obtain a copy of the recording please contact the Conservation office.