



## CONSERVATION COMMISSION MEETING MINUTES –May 23, 2022

**Present:** Crystal Kelly – Chair, Carolyn Nielsen -Vice Chair, Bob Hidell, and Bob Mosher - Commissioners, Emily Sullivan-Conservation Officer

**Absent:** Nina Villanova, Tom Roby

The remote meeting was held via Zoom with Dial in #929-205-6099, Meeting ID # 872-0172-2195

**The meeting was called to order at 7:04 PM.**

Chair Kelly stated that the meeting was being held remotely as an alternate means of public access pursuant to Chapter 20 of the Acts of 2021 temporarily amending certain provisions of the Open Meeting Law. She advised that the meeting and all communications during the meeting may be recorded by the Town of Hingham in accordance with the Open Meeting Law. She stated that if any participant wished to record the meeting, to notify her in accordance with M.G.L. c. 30A, § 20(f) so that she could inform all other participants of the recording. No participants expressed a wish to record the meeting.

### **Approval of Minutes from 3/28/22 and 5/2/22**

Without the correct quorum for each set of minutes, there was no vote on the minutes.

### **Certificates of Compliance**

**24 Lewis Court** – DEP 034-1201, cont'd from 12/20/21

Applicant: John Woodin

Representative: Gary James, James Engineering

*Meeting Documents & Exhibits: Staff memo and Request for Certificate of Compliance*

*Excerpts from the staff memo: An Order of Conditions was issued in March 2015 for the construction of a subdivision with three houses, a new cul-de-sac roadway, and associated grading and utilities. The project also included stormwater management infrastructure (leaching pits and pervious driveways) and wetlands replication.*

*Since the 12/20/2021 meeting, staff has received the following required documentation:*

- *Report confirming 100% plant survival rate of wetland replication area*
- *Documentation confirming that the stormwater Operations and Maintenance Plan has been provided to property owners within the development and that maintenance of leaching pits and pervious driveways shall be the responsibility of those owners in perpetuity.*

*Staff visited the site on 5/18/2022 and confirmed the survival of the wetland replication area. Staff observed construction debris within the 50ft buffer, adjacent to the wetland replication area. Staff requested that the debris be removed prior to the Commission's 5/23/2022 meeting.*

John Woodin was present on the call, explained that the CO had checked the wetland replication area and that he'd spoken to the neighbor regarding the scrap wood noted by the CO. The CO commented that this request had been continued from the prior fall, awaiting additional information regarding the 100% survival of the replication area plants and removal of the debris adjacent to the wetland replication area. Brief discussion followed about the debris removal, it's location on another person's property and J.Woodin stated that he would follow up with the neighbor and see that it gets removed. Responding to a question about the roadway drainage maintenance, J. Woodin explained that the road had been accepted by the town.

**Motion:** Comm'r Nielsen moved to issue a full Certificate of Compliance for 24 Lewis Court (DEP 034-1201), with the following ongoing conditions:

45. This Order shall apply to all successors in interest and successors in control of the property described in the Notice of Intent and accompanying plans. This condition shall apply in perpetuity and shall not expire with the issuance of a Certificate of Compliance.

46. It is the sole responsibility of the owner of record to maintain drainage structures at all times. Drainage facilities shall be cleaned on an as-needed basis and checked every six months. The property owner is responsible for maintaining records of this maintenance and cleaning for review by the Hingham Conservation Commission.

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

**Second:** Comm'r Mosher

**Roll Call:** Comm'r Kelly: aye, Comm'r Hidell: aye, Comm'r Mosher: aye, and Comm'r Nielsen: aye

### **5 LeClair Drive – DEP 034-0349**

Applicant: Michael and Theresa Mondo

*Meeting Documents & Exhibits:* Staff memo and Request for Certificate of Compliance

*Excerpts from the staff memo:* Staff visited the site on 5/11/22. The site is stable and topography appears to be generally the same. Staff noticed some unpermitted construction had occurred on the property in the past, including a patio, retaining wall, deck and firepit, however this work is in the buffer zone and appears to have been in place for a number of years. Staff observed a couple of issues that need to be addressed, and relayed them to the requestor (now the former owner), and the new owner.

Applicant Michael Mondo was present on the call, explained that they had been the first resident to live at 5 LeClair Drive and after thirty years they had decided to sell, only to discover upon a title search that the septic system installation had not received a COC from the Conservation Commission. He stated that the ACO had done a site visit, compared to the As-Built plan and had noted some grass clippings in the staff memo; he noted that they were only recent clippings as his normal landscape company had not been there. The CO commented that in this case there had been unpermitted work on the site; retaining wall, patio, firepit; but that it had been a long time. She noted that barren slopes had since been covered with leaves and properly stabilized. She pointed out that there had been a condition about adding permanent language to the deed but she feels that at this point it is not needed. She suggested that the condition regarding maintenance of a 20' buffer to the wetlands should be included as an ongoing condition. The Commission briefly discussed the conditions and were in agreement that the 20' buffer condition should remain as a perpetual condition.

**Motion:** Comm'r Mosher moved to issue a Certificate of Compliance for 5 LeClair Drive (DEP 034-0349), with the following ongoing condition:

24. A 20' natural and undisturbed area of vegetation shall be preserved and maintained adjacent to all wetlands.

**Second:** Comm'r Nielsen

**Roll Call:** Comm'r Kelly: aye, Comm'r Hidell: aye, Comm'r Nielsen: aye and Comm'r Mosher: aye

### **Requests for Determination of Applicability**

#### **2 Feeley Lane**, cont'd from 5/2/22

Applicant: Sarah and Daniel Bravo c/o K&E Construction

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

Proposed: Proposed grading & installation of driveway & utilities

*Meeting Documents & Exhibits:* Staff memo, Site Plan date 5/2/22 and Landscape Plan dated 5/10/22.

*Excerpts from the staff memo:* Staff visited the site on 3/21/2022 and received the following additional information from the applicant's representative: The amount of disturbance within the 100' wetland buffer is approximately 3,600sqft and the amount of net fill is 87cy. Gravel base will be utilized for the new house foundation, crusher run base will be utilized for the new driveway, common fill and top soil will be utilized in other required fill areas of the site. All fill shall be clean and free of bricks, concrete and any other trash/unsuitable material. The proposed sewer service has been relocated outside of the 50ft buffer.

Jeffrey Hassett from Morse Engineering was present on the call, reviewed the application and noted that most work is out of the buffer zones. He added that they are providing 1:1 mitigation plantings to account for the area of the driveway within the buffer zone. The CO stated that the hearing had been continued partly due to waiting for final Planning Board approval, in case anything in the project was changed through that process. She noted that the amount of fill on site is less than that was initially proposed. This lot is part of a subdivision under an Order of Conditions and the CO

had spoken to all the 3 owners and they are aware of the stormwater infrastructure. Brief discussion followed regarding the mitigation and J. Hassett noted that the site plan shows the mitigation area and includes a table with quantity and species. The Commission had no further questions.

**Motion:** Comm'r Hidell moved to issue a Negative Determination of Applicability for the proposed work at 2 Feeley Lane, as shown on the submitted plans, and adopt the findings of fact a through c, and conditions 1 through 8 of the staff report.

Findings:

- a. This project meets the requirements of Part 1, Section 7.1 of the Town of Hingham Wetland Regulations governing procedures for a Request for Determination of Applicability.
- 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 the wetland resource areas.

Conditions:

1. Prior to the start of work, erosion and sediment controls shall be installed, as shown on the final approved plan, and inspected by an agent of the Commission; straw wattles and/or hay bales shall not be used as a form of erosion or 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. Any debris, which falls into any resource area, shall be removed immediately by hand and properly disposed of at an off-site location.
4. All excavated material shall be properly disposed of at an off-site location.
5. 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.
6. 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.
7. Prior to the issuance of a Certificate of Occupancy, mitigation area plantings shall be installed, and seeding completed, in accordance with the final approved plan.
8. The Conservation Department shall be notified to any changes in plans prior to proceeding with said changed plans.

**Second:** Comm'r Mosher

**Roll Call:** Comm'r Kelly: aye, Comm'r Nielsen: aye, Comm'r Mosher: aye, and Comm'r Hidell: aye

### **6 Feeley Lane**, cont'd from 5/2/22

Applicant: Nicholas & Kerrie Keller c/o K&E Construction

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

Proposed: Proposed grading

*Meeting Documents & Exhibits: Staff memo and Site Plan dated 5/2/22 and Landscape Plan 5/6/22*

*Excerpts from the staff memo: Staff visited the site on 3/21/2022 and received the following additional information from the applicant's representative: The amount of disturbance within the 100' wetland buffer is approximately 7,300sqft and the amount of net fill is 252cy. Gravel base will be utilized for the new house foundation, crusher run base will be utilized for the new driveway, common fill and top soil will be utilized in other required fill areas of the site. All fill shall be clean and free of bricks, concrete and any other trash/unsuitable material. The propane tank and proposed water service have been relocated outside of the 100ft buffer.*

Jeffrey Hassett of Morse Engineering was present on the call, explained that this parcel was lot 3 of the subdivision and noted that the wetlands are onsite at the rear of the property with the 100ft buffer extending into the buildable area. The house and driveway are out of the 100ft buffer but there is some grading within the buffer. A small area at the rear that is currently cleared will be restored with a seed mix. The CO stated that the net fill is less than was initially proposed. Overall the draft conditions are similar but for this project no mitigation is required. Responding to a

question, J. Hassett explained that in the area proposed for grading, loam would be added and seed for lawn and some landscaping. J. Hassett shared his screen with the planting plan. The Commission had no further question.

**Motion:** Comm'r Nielsen moved to issue a Negative Determination of Applicability for the proposed work at 6 Feeley Lane, as shown on the submitted plans, and adopt the findings of fact a through c, and conditions 1 through 7 of the staff report.

Findings:

- a. This project meets the requirements of Part 1, Section 7.1 of the Town of Hingham Wetland Regulations governing procedures for a Request for Determination of Applicability.
- 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 the wetland resource areas.

Conditions:

1. Prior to the start of work, erosion and sediment controls shall be installed, as shown on the final approved plan, and inspected by an agent of the Commission; straw wattles and/or hay bales shall not be used as a form of erosion or 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. Any debris, which falls into any resource area, shall be removed immediately by hand and properly disposed of at an off-site location.
4. All excavated material shall be properly disposed of at an off-site location.
5. 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.
6. 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.
7. The Conservation Department shall be notified to any changes in plans prior to proceeding with said changed plans.

**Second:** Comm'r Mosher

**Roll Call:** Comm'r Kelly: aye, Comm'r Nielsen: aye, Comm'r Hidell: aye, and Comm'r Mosher: aye

### **74 Clubhouse Drive**

Applicant: Catherine Varitek

Proposed: Replacement and extension of existing deck

*Meeting Documents & Exhibits: Staff memo and Request for Determination of Applicability*

*Excerpts from the staff memo: Staff visited the site on 5/11/22.*

There was no one representing the project on the call and the Commission chose to continue the matter to the next meeting.

**Motion:** Comm'r Mosher moved to continue consideration of 74 Clubhouse Drive to the June 6, 2022 meeting.

**Second:** Comm'r Nielsen

**Roll Call:** Comm'r Kelly: aye, Comm'r Hidell: aye, Comm'r Nielsen: aye, and Comm'r Mosher: aye

### **1 Beach Lane**

Applicant: Matthew Sexton

Representative: Nicholas Preston, Nicholas Preston Design

Proposed: Installation of exterior stairs and enlargement of porch

*Meeting Documents & Exhibits: Staff memo and Request for Determination of Applicability*

*Excerpts from the staff memo: A negative Determination of Applicability was issued in December 2021 for this same property and a similar scope of work. Although this Determination has not expired, there is no process to amend it, and staff felt the proposed changes could not be approved administratively as field changes. The initial proposal did not involve an expansion in footprint, and the current proposal will increase the footprint by ~71 sf. The initial proposal also*

*included a small roof area above a portion of the two decks, and the current proposal includes a roof over the entire area, which is ~214 sf. The proposed spiral staircase egress has not changed. The area where work is proposed is all relatively flat, and consists of the existing structure, landscape beds with shrubs and herbaceous plantings adjacent to the house, and lawn. All work is outside the 100ft buffer zone, but is within LSCSF associated with Hingham Bay. The prior approved plan included two flood vents, one on either end of the proposed porch, however with the change in overall footprint and rooftop, and in keeping with the Commission's typical requirements relative to the performance standard of "free passage of floodwater", staff recommends requiring an addition flood vent at the front of the porch as well. The draft conditions below are marked up from the previously issued Determination to reflect this change.*

The representative Nicholas Preston and the homeowner Matthew Sexton were present on the call. N. Preston shared his screen with the plan and explained that this project had been previously approved by the Commission but that they were back before the Commission because they wish to expand the front deck by 3 ft. It would still remain outside the 100ft buffer and the front stairs would be moved within the footprint of the deck and the column locations have been adjusted to accommodate the new stair location. He stated that plans for the spiral staircase remain the same as previously proposed.

The CO reminded the Commission that the project is outside the 100ft buffer but is within Land Subject to Coastal Storm Flowage (LSCSF). She noted that the 3ft extension of the deck amounts to an increase of 71sf to the footprint of the front porch. The initial proposal included a small roof above a portion of 2 small back decks but this proposal has a roof over the entire area and increases impervious surface by 214sf. She noted that this project is only within LSCSF, not any other resource area. With the previous proposal, the Commission had conditioned 2 Flood vents but due to the change in size, staff recommends that 3 be installed to ensure the free passage of floodwaters. The Commission was in agreement with this recommendation.

**Motion:** Comm'r Hidell moved to issue a Negative Determination of Applicability for the proposed work at 1 Beach Lane, as shown on the submitted plans, and adopt the findings of fact a through c, and conditions 1 through 7 of the staff report.

Findings:

- a. This project meets the requirements of Part 1, Section 7.1 of the Town of Hingham Wetland Regulations governing procedures for a Request for Determination of Applicability.
- 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 around the work areas, and inspected by an agent of the Commission; straw wattles and/or hay bales shall not be used as a form of erosion or 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. Any debris, which falls into any resource area, shall be removed immediately by hand and properly disposed of at an off-site location.
4. All demolition and excavated material shall be properly disposed of at an off-site location.
5. Flood vents shall be installed in the lattice under the porch/decks, **on all three sides of the structure** as shown on the approved plans, to allow the **free** passage of floodwaters.
6. Prior to the issuance of a Certificate of Occupancy and/or final building sign off, an Elevation Certificate shall be prepared and submitted to the Commission for review.
7. The Conservation Department shall be notified to any changes in plans prior to proceeding with said changed plans.

**Second:** Comm'r Mosher

**Roll Call:** Comm'r Kelly: aye, Comm'r Nielsen: aye, Comm'r Mosher: aye, and Comm'r Hidell: aye

### **39 Myers Farm Road**

Applicant: Kenneth Bagley

Representative: Matthew Marro, Matthew S. Marro Environmental Consulting

Proposed: Replacement of timber retaining wall

*Meeting Documents & Exhibits: Staff memo and Request for Determination of Applicability*

*Excerpts from the staff memo: Staff visited the site on 5/12/2022. The condition of the site is a serious safety concern, as the retaining wall is failing due to lateral stress as land subsides toward the wetland. The wall needs to be rebuilt. If no action is taken then the property's backyard, including an existing pool, will fail and migrate towards the wetland.*

Environmental consultant, Matt Marro, was present on the call with the homeowners, Ken and Karen Bagley. M. Marro shared his screen with the plan, pointed out the BVW and described the deteriorating condition of the timber retaining wall and the buckling patio section of the existing swimming pool. He described the proposed erosion controls, a silt sock, noting that the detail had been added to the stamped structural and civil plans. The existing timber wall will be taken down and replaced in kind with a stone retaining wall. A small piece of equipment will be used to take out materials and to bring the stone in, but the stone will be installed by hand. He provided details of the construction sequence.

The CO commented that the current wall is compromised and, with quite a large grade change, there is urgency to the request. She noted that the construction access will be on the east side of the house and outside the 50ft buffer. She added that yard waste debris on the west side will be removed.

Responding to a Commission question, M. Marro gave a detailed description of the wall replacement; the timbers will be removed and replaced with the stone blocks, section by section, and M. Marro stated that there will be a crushed stone leveling pad that is solid enough to stand on but allows for drainage beneath. The CO shared the structural detail to the screen. Responding to a Commission question, homeowner Ken Bagley stated that the pool is a 20 year old gunnite pool in good shape. There is crushed stone and concrete decking with crushed stone beneath. The wall is six feet. Photos of the pool area, showing the buckling concrete, were shared to the screen. The Commission had no further questions.

**Motion:** Comm'r Nielsen moved to issue a Negative Determination of Applicability for the proposed work at 39 Myers Farm Road, as shown on the submitted plans, and adopt the findings of fact a through c, and conditions 1 through 8 of the staff report.

Findings:

- a. This project meets the requirements of Part 1, Section 7.1 of the Town of Hingham Wetland Regulations governing procedures for a Request for Determination of Applicability.
- 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-2 to WF-11, but makes no finding as to the exact boundaries of other wetland resource areas.

Conditions:

1. Prior to the start of work, a construction summary, including information about construction access and stockpiling, shall be submitted to the Commission for approval.
2. Prior to the start of work, erosion and sediment controls shall be installed, as shown on the final approved plan, and inspected by an agent of the Commission; straw wattles and/or hay bales shall not be used as a form of erosion or sediment control.
3. 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.
4. Any debris, which falls into any resource area, shall be removed immediately by hand and properly disposed of at an off-site location.
5. All lawn waste, brush, leaves, or other materials dumped in any resource area, including the buffer zone, in particular near the northern corner of the existing retaining wall, 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.
6. All demolition and excavated material shall be properly disposed of at an off-site location.
7. 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.

8. The Conservation Department shall be notified to any changes in plans prior to proceeding with said changed plans.

**Second:** Comm'r Mosher

**Roll Call:** Comm'r Kelly: aye, Comm'r Hidell: aye, Comm'r Nielsen: aye, and Comm'r Mosher: aye

**Chair Kelly read the Public Hearing Notice of Intent.**

**9 Camelot Drive** – DEP 034-1444, cont'd from 5/2/22

Applicant: James and Christine Lawless

Representative: Christopher Sanderson, Merrill Inc.

Proposed: Removing hardscape, relocating fencing, grading & landscaping

*Meeting Documents & Exhibits: Staff memo and Request for Determination of Applicability*

*Excerpts from the staff memo: Staff visited the site on 4/20/2022. The project will cut a volume of 36.40cy and fill a volume of 36.38cy. No compensatory flood storage is required. Relocating a section of the western fence line will require the full removal of an existing tree stump. The area is proposed to be revegetated per the landscape plan so no erosion/stability issues are anticipated due to the stump removal. No other vegetation will be impacted.*

*Staff proposes to condition the removal of the dumped yard waste. The yard waste it is on conservation property.*

Tish Campbell, from Tish Landscape Design, Chris Sanderson, from Merrill Inc, and homeowner James Lawless were present on the call. It was noted this proposal had been discussed at the previous hearing but that a DEP # file had not been issued. The DEP # had since been assigned. Tish Campbell confirmed that the proposed plants in the back of the house had been changed to be native species (not cultivars).

Chair Kelly invited members of the public to comment. No member of the public wished to comment.

The Commission had no further comments.

**Motion:** Comm'r Nielsen moved to issue an Order of Conditions for the proposed work at 9 Camelot Drive (DEP 034-1444), as shown on the submitted plans, and adopt the findings of fact a through c, and special conditions 21 through 44 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 BVW flags A-1 to A-11, but makes no finding as to the exact boundaries of other wetland resource areas.

Special conditions:

21. The applicant shall notify the Hingham Conservation 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 shall notify the Commission, by telephone or writing, at least 48 hours prior to commencement of work on the site.
22. This document shall be included in all construction contracts and subcontracts dealing with the work and shall supersede all other contract requirements.
23. The project supervisor or contractor in charge of the work shall have a copy of this Order available on the site at all times.
24. 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.
25. Prior to the start of any excavation or construction, erosion and sediment controls shall be installed, as shown on the final approved plan, 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.
26. 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.

27. Prior to the start of any excavation or construction, the sections of fence relocation shall be staked and inspected by an agent of the Commission. The fence shall be installed within the existing lawn area, and no natural vegetation within the buffer zone shall be removed to facilitate the installation of the fence.
28. 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.
29. Any debris, which falls into any resource area, shall be removed immediately by hand and properly disposed of at an off-site location.
30. All lawn waste, brush, leaves, or other materials dumped in any resource area, including the buffer zone, in particular near wetland flags A-6, A-7, and A-11, 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.
31. All tree debris shall be properly disposed of at an off-site location; no chipped or mulched material shall remain on the property.
32. All demolition and excavated material shall be properly disposed of at an off-site location.
33. Any on site dumpsters shall not be located within 50 feet of any resource area.
34. 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.
35. At the end of each workday, the applicant shall mechanically or manually sweep sediments from all paved surfaces, unless tracking and sediment is not evident.
36. 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.
37. 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.
38. 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.
39. The wetlands buffer planting area plantings shall be installed, and seeding completed, in accordance with the final approved landscape plan.
40. 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.
41. The applicant shall apply for a Certificate of Compliance as soon as work has been completed and prior to the expiration of this Order. If work cannot be completed 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.
42. The applicant shall submit an "as built" plan to the Commission upon completion of this project. The plan shall be signed by the professional engineer of record, who shall certify that the work has been done in accordance with the approved plans and this Order. This plan must be submitted prior to the issuance of a Certificate of Compliance by the Commission.
43. Prior to the issuance of a Certificate of Compliance, the wetlands buffer planting area plantings 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.
44. The wetlands buffer planting area shall be maintained with native plantings or shall 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.

**Second:** Comm'r Mosher

**Roll Call:** Comm'r Kelly: aye, Comm'r Hidell: aye, Comm'r Mosher: aye, and Comm'r Nielsen: aye

**4 Puritan Road** – DEP 034-1442, cont'd from 5/2/22

Applicant: Ryan Novak

Representative: Kenneth Thomson

Proposed: Construction of an addition

*Meeting Documents & Exhibits: Request for Determination of Applicability*

*Excerpts from the staff memo: no staff memo was prepared as no new materials were submitted*

Ahead of the meeting, the applicant's representative had requested to continue to the next meeting. Chair Kelly requested that any members of the public who were present hold any comments to the next meeting.

**Motion:** Comm'r Hidell moved to continue the hearing for 4 Puritan Road to the June 6, 2022 meeting.

**Second:** Comm'r Mosher

**Roll Call:** Comm'r Kelly: aye, Comm'r Nielsen: aye, Comm'r Mosher: aye, and Comm'r Hidell: aye

**4 Pine Grove Road** – DEP 034-1441, cont'd from 5/2/22

Applicant: K&E Construction

Representative: Jeffrey Hassett, P.E., Morse Engineering CO, Inc

Proposed: Realignment of gravel driveway

*Meeting Documents & Exhibits: Staff memo and Revised Plan date 5/23/22*

*Excerpts from the staff memo: The purpose of this Notice of Intent is to evaluate the potential impacts of modifying an existing gravel driveway so that it is fully within the subject property. This work is part of a larger project to raze and rebuild a single family home and upgrade a septic system, all of which is outside of conservation jurisdiction. The driveway work is the only jurisdictional work.*

Jeffrey Hassett from Morse Engineering was present on the call with applicant Ed Johnson from K&E Construction. J. Hassett briefly gave an overview of the whole project and explained the only portion of the work within the 100ft buffer was the gravel driveway. He stated that the previous iteration was to only shift the driveway about 4 feet to bring it on to the subject property however, last minute comments from the fire department required widening it to 14 ft, keeping it as gravel. J. Hassett shared the plan to the screen showing the widened driveway and a larger mitigation area where they propose to remove invasives and replant with native trees, shrubs and a wildlife seed mix. Because they had only just received the fire department comment that day, they did not have a proposed planting list for the mitigation area, hoped the Commission would simply condition submittal of the mitigation plan and they would engage Environmental Consulting and Restoration to make the plan.

The CO summed up the last change to the plan and the increase in mitigation and suggested that conditioning submittal of a mitigation plan had been done before but would require the addition of a new condition, bringing the total to 45. Brief discussion followed and the Commission had no further questions.

**Motion:** Comm'r Hidell moved to issue an Order of Conditions for the proposed work at 4 Pine Grove Road (DEP 034-1441), as shown on the submitted plans, and adopt the findings of fact a through c, and special conditions 21 through 45 of the staff report.

*(the conditions below include the addition of condition #27 as discussed at the meeting)*

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 makes no finding as to the exact boundaries of wetland resource areas. If future additional work is proposed within conservation jurisdiction, the pond should be assessed for vernal pool and isolated land subject to flooding characteristics.

Special conditions:

21. The applicant shall notify the Hingham Conservation 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 shall notify the Commission, by telephone or writing, at least 48 hours prior to commencement of work on the site.

22. This document shall be included in all construction contracts and subcontracts dealing with the work and shall supersede all other contract requirements.
23. The project supervisor or contractor in charge of the work shall have a copy of this Order available on the site at all times.
24. 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.
25. Prior to the start of any excavation or construction, erosion and sediment controls shall be installed, as shown on the final approved plan, 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.
26. 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.
27. Prior to the start of any excavation or construction, a mitigation planting plan shall be submitted to the Commission for review and approval. The planting plan shall include a minimum of 1,660 square feet of plantings, including a mix of shrubs and herbaceous species, in accordance with the Commission's Buffer Zone Mitigation Policy (adopted 9/27/21). The plan should also include management of existing invasive species located on the property, within the mitigation planting area. Locations closest to the resource areas shall be prioritized for planting. All mitigation plantings shall be native species; no cultivars, non-native species, or invasive species shall be allowed.
28. 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.
29. Any debris, which falls into any resource area, shall be removed immediately by hand and properly disposed of at an off-site location.
30. All excavated material shall be properly disposed of at an off-site location.
31. Any on site dumpsters shall not be located within 100 feet of any resource area.
32. 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.
33. At the end of each workday, the applicant shall mechanically or manually sweep sediments from all paved surfaces, unless tracking and sediment is not evident.
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 100 feet of any resource area.
37. 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 lawn or other vegetation, with no changes in grade permitted.
38. The 108sqft of mitigation area plantings shall be installed, and seeding completed, in accordance with the final approved landscape plan. All mitigation plantings shall be native species; no cultivars, non-native species, or invasive species shall be allowed.
39. 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.
40. The use of de-icing chemicals, except for calcium magnesium acetate, a.k.a. CMA, or other alternative approved by the Commission, shall be prohibited on this property because of its location in a Surface Water Supply

Protection Area and 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.

41. The use of pesticides, herbicides, fungicides, and fertilizers shall be prohibited on this property because of its location in a Surface Water Supply Protection Area and 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.
42. The applicant shall apply for a Certificate of Compliance as soon as work has been completed and prior to the expiration of this Order. If work cannot be completed 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.
43. The applicant shall submit an "as built" plan to the Commission upon completion of this project. The plan shall be signed by the professional engineer of record, who shall certify that the work has been done in accordance with the approved plans and this Order. This plan must be submitted prior to the issuance of a Certificate of Compliance by the Commission.
44. Prior to the issuance of a Certificate of Compliance, the mitigation area plantings 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. If upon request of an applicant, the Commission determines that a partial Certificate of Compliance may be permissible prior to the issuance of a complete Certificate of Compliance, the mitigation area plantings shall be installed and seeding completed prior to issuance of the partial Certificate of Compliance.
45. The 1,660 square foot mitigation planting area shall be maintained with native plantings or shall 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.

**Second:** Comm'r Mosher

**Roll Call:** Comm'r Kelly: aye, Comm'r Nielsen: aye, Comm'r Hidell: aye, and Comm'r Mosher: aye

#### **14 Seal Cove Road** – DEP 034-XXXX, cont'd from 5/2/22

Applicant: Leonard Monfredo

Representative: Joseph Hannon, Atlantic Coast Engineering LLC

Proposed: Covered boat lift

*Meeting Documents & Exhibits: Staff Memo and Notice of Intent application*

*Excerpts from the staff memo:*

Ahead of the meeting, the applicant's representative had requested to continue to the next meeting. Chair Kelly requested that any members of the public who were present hold any comments to the next meeting.

**Motion:** Comm'r Mosher moved to continue the hearing for 14 Seal Cove Road to the June 6, 2022 meeting.

**Second:** Comm'r Nielsen

**Roll Call:** Comm'r Kelly: aye, Comm'r Nielsen: aye, Comm'r Hidell: aye, and Comm'r Mosher: aye

#### **Other Business:**

##### **361 Main Street** DEP 034-1379, cont'd from 5/2/22

Applicant: Wendy Kirk

Field Change Request: change runoff management

*Meeting Documents & Exhibits: Staff Diagram*

Chair Kelly invited members of the Commission who had made a site visit to comment. Comm'r Nielsen commented that it was valuable to see the site in person and that it was evident with the site visit that the Commission could request the drainage from the side of the house facing the pond to go to a drywell but that drainage from the rest of the house could simply be taken care of otherwise. Comm'r Hidell commented that there are a number of downspouts on the plan with lots of roof drainage coming off. He suggested that the water from the pond side be collected into a single drain going to a drywell that is away from the pond where soils may be more favorable. He added that they may get enough slope that they won't need a sump pump. The CO said that she'd spoke with homeowner Wendy Kirk about working with an engineer to design the back end that drains toward the pool. W. Kirk was present on

the call, stated that Cavanaro Consulting had come up with a design and she shared it to the screen adding that Brendan Sullivan thought gravity was going to work here and a sump pump not included. Discussion about soils, slope and the location of the proposed drywell relative to the 100ft buffer followed, concluding with W. Kirk stating that she would speak to B. Sullivan to see if he can move the drywell more southerly and outside the 100 ft buffer if possible.

The Commission stated that the CO could further work with B. Sullivan and W. Kirk to try to improve the plan based on the Commission's discussion.

Chair Kelly called for a vote to approve the field change subject to the specifications discussed.

**Roll Call:** Comm'r Kelly: aye, Comm'r Nielsen: aye, Comm'r Hidell: aye, and Comm'r Mosher: aye

#### **5 Merrill Street** DEP 034-1322

Applicant: James Rader representing 5 Merrill Realty Trust

Field Change Request, after the fact: relocation of approved fence

*Meeting Documents & Exhibits: Staff Diagram*

James Rader, representing Merrill Street Trust, was present on the call. He stated that there was an old picket fence that was in serious need of replacement, he'd ordered the replacement 7-8 months ago and in the last 30-45 days had pulled the picket fence out and replaced it with the new black stockade fence. He stated that the fence follows the property line and in some areas was pushed a few feet further out than the old fence. He stated that the CO did a site visit and thought it appropriate for the applicant to request a field change for the location of the fence.

The CO shared her screen with a Staff Diagram of the property and fence locations. She clarified for the Commission that a highlighted line erroneously highlighted the erosion control line and pointed out on the diagram the actual location of the previous fence and the new fence. The CO noted that, for the Commission's consideration, that the relocation of the fence puts the fence closer to, or possibly on, the Coastal Bank.

Responding to questions from the Commission, J.Rader explained that the contours of the property change significantly and there are some sections with gaps of 6 inches and noted that the fence is for pool area safety. The CO confirmed that the new fence was installed and that its new location had disturbed some naturally vegetated areas and created lawn. The Commission noted the difference in previous and current fence locations, expressed some dissatisfaction with the change in location but acknowledged that the site, and beyond the site, is already so disturbed. If it were another site, they would have some concerns but in this case they generally felt that they could approve it. Chair Kelly called for a vote to approve the field change.

**Roll Call:** Comm'r Kelly: aye, Comm'r Nielsen: aye, Comm'r Mosher: aye, and Comm'r Hidell: aye

#### **5 Willow Circle** DEP 034-1410

Applicant: Paul Kelly

Field Change Request: relocation of approved fence

*Meeting Documents & Exhibits: Diagram, marked up plan and photographs provided by P. Kelly*

Paul Kelly was present on the call and shared his screen. He explained that he'd gotten Commission approval for the pool work but that the Building department had informed him that he could not put a fence on top of the retaining wall. The Building department said it could be 2 feet in front of the wall. P.Kelly had suggested to the ACO that he might put it down behind the wall in the grass area and she approved that, however. P. Kelly was before the Commission because he would like to put it even further back, just inside the wetland flags. He described the 2 different types of fences, solid privacy and aluminum chain link, pointed out on the plan the proposed locations, and added that the aluminum fence would allow for small animals to go back and forth, for plant life to grow in and out and also allow for flood waters. He noted that with 2 acres of wetlands behind the property, there is a lot of area to accommodate flood waters and it has never been a problem on their property. He shared photos of the area, noting a pathway that animals go along in the area proposed for mitigation plantings. He stated that the advantage to putting the fence behind the mitigation area was that it would protect the plantings from animals.

The CO commented that she and the ACO had discussed the proposed new location. She expressed their concern that with the fence behind the mitigation area, someone down the road might just convert the area to lawn, and that the fence might promote lawn in an area where it should not be. She pointed out the 3 areas proposed for mitigation, one is for 860sf and two other are both under 300sf.

The Commission and CO discussed the importance of a fence being a protection element for mitigation areas and that even with a recorded condition regarding the mitigation area, long term compliance is a challenge and a fence

is the best way to preserve that area for the future. Discussion turned to changing the shape of the mitigation area. P. Kelly noted the varied landscape and the wish to preserve the view rather than having a fence up and down the hills of the lot. The Commission discussed the topography of the lot and suggested that the shape of the mitigation area could be a ribbon of native plantings along the back and a level fence located on the inside of those plantings. The Commission and CO concluded that 860sf of plantings could be accommodated along the back and would be more protective of the wetlands. P. Kelly expressed his concern that he would be needing to replace the mitigation plantings frequently due to animals trampling or eating them. The Commission felt he could work with a landscape professional who could steer him to native plantings that would be less palatable to wildlife.

The Commission confirmed with the CO that if they approve the field change, within the parameters discussed at the meeting, that she could work with P.Kelly to come up with a good solution. P.Kelly agreed that the discussed plan should work.

Chair Kelly called for a vote to approve a field change as negotiated at the meeting.

**Roll Call:** Comm'r Kelly: aye, Comm'r Nielsen: aye, Comm'r Mosher: aye, and Comm'r Hidell: aye

**Motion:** Comm'r Mosher moved to adjourn the meeting at 9:00 pm.

**Second:** Comm'r Hidell

**Roll Call:** Comm'r Kelly: aye, Comm'r Mosher: aye, , Comm'r Hidell: aye and Comm'r Nielsen: aye

Submitted, \_\_\_\_\_

Sylvia Schuler, Administrative Assistant

Approved on June 6, 2022

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