



## CONSERVATION COMMISSION MEETING MINUTES – August 2, 2021

**Present:** Crystal Kelly-Vice Chair, Bob Mosher, Thomas Roby, and Bob Hidell-Commissioners, Loni Fournier-Conservation Officer and Heather Charles-Lis-Assistant Conservation Officer

**Absent:** Laurie Freeman-Chair

The remote meeting was held via Zoom with Dial in #929-205-6099, Meeting ID # 838-3379-1246

**The meeting was called to order at 7:05 PM.**

Vice 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**

**Motion:** Vice Chair Kelly moved to adopt the draft minutes from the July 12, 2021 meeting.

**Roll Call:** Comm'r Hidell: aye, Comm'r Mosher: aye, Comm'r Roby: aye and Vice Chair Kelly: aye

### **Certificates of Compliance**

**74 Abington Street** – DEP 034-0935

Applicant: Christopher Julian, Trustee, Mad River Realty Trust

Representative: Bradley McKenzie, McKenzie Engineering Group, Inc.

*Meeting Documents & Exhibits: none*

*Excerpts from the staff memo: no staff memo was prepared*

The ACO stated that no new information had been received but the applicant had reached out to the Conservation office suggesting that he would have information to submit by the next meeting on 8/23. The applicant's representative, Al Loomis, from McKenzie Engineering Group, Inc., was present on the call and summarized some of the items that the property owner, C. Julian, was gathering for submittal. The ACO stated that she would be in touch with a reminder of a few other items; fixing stones & grading in the basin, addressing some Japanese Knotweed, and cleaning the outlets.

**Motion:** Vice Chair Kelly moved to continue consideration of 74 Abington Street, DEP 034-0935, to 8/23/21.

**Second:** Comm'r Mosher

**Roll Call:** Comm'r Hidell: aye and Comm'r Roby: aye and Vice Chair Kelly: aye

### **Requests for Extension of Order of Conditions**

**306-392 Whiting Street** – DEP 034-1306

Applicant: Bristol Bros. Development Corporation

Representative: John Zimmer, South River Environmental

*Meeting Documents & Exhibits: Staff memo*

*Excerpts from the staff memo: The original Order of Conditions for 306 & 392 Whiting Street (DEP 034-1306) was issued in September 2018 for the construction of a commercial building and parking lot, to serve as an expansion of the Range Bar and Grille/Weathervane Academy facility, and associated wetland replication. An Amended Order of Conditions was issued in September 2020 for modifications to the proposed wetland replication due to the presence of extensive ledge on*

site. The applicant is requesting a three-year extension to allow additional time to obtain other local, state, and federal approvals and complete the project.

Staff relayed the following questions to the representative:

First, it would be very helpful to have an update on the status of work on site. Has any additional work on the replication area happened since the Amended OOC was issued last year? Second, I noted that on behalf of the applicant, you withdrew the application for a 401 Water Quality Cert. last month. Has the scope of work changed in some way, or can you please explain why this was withdrawn at this time?

The circumstances under which the Commission could deny an extension do not apply to this project. Assuming the questions above are satisfactorily answered, staff recommends issuing a three-year extension.

The Order of Conditions was set to expire on September 18, 2021, however staff notes that due to the COVID-19 State of Emergency and associated executive orders and legislation, the existing Order has already been automatically extended to December 24, 2022. This is because this permit was in effect on March 10, 2020 when the state of emergency began and it was not set to expire until after the state of emergency ended on June 15, 2021, so it was tolled for the full length of the state of emergency, or 462 days. Thus a three-year extension would be from this date.

Vice Chair Kelly briefly discussed with staff the appropriateness of extensions considering the tolling, due to pandemic, and the fact that the expiration date is just over a year off. Staff relayed the advice and reasoning shared with them, from the professional organizations the Commission belongs to, that advised to continue granting extensions. The ACO summarized the reasons for which the Commission may deny an extension request.

Representative John Zimmer was present on the call and stated that no work had started on the project however the work that had begun on the replication area had continued and they will likely be able to plant it in September. Due to the owners plan to redesign & scale back the project, the 401 Water Quality application had been withdrawn and they would be submitting a new application for the 401 Water Quality certificate based on the redesign. J. Zimmer explained that for the required 2 year monitoring of the replication area that would put them past the expiry of the Order of Conditions and additionally, with the redesign in process followed by the lengthy review process of DEP for the 401 Water Quality certificate they felt it better to apply for an extension now. Staff and the Commission had no further comments.

**Motion:** Vice Chair Kelly moved to extend the Order of Conditions on 306 & 392 Whiting Street, DEP # 034-1306.

**Second:** Comm'r Mosher

**Roll Call:** Comm'r Hidell: aye and Comm'r Roby: aye and Vice Chair Kelly: aye

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

### **Notices of Intent**

**185 Downer Avenue**– DEP 034-1416, continued from 7/12/21

Applicant: Fred & Sandy Studley

Representative: Daniel Brewer, Law Office of Daniel A. Brewer

Proposed: Demolition and reconstruction of a single family house

**Meeting Documents & Exhibits:** Staff memo, Submitted 7-30 Revised Landscape Plan L-1 & L-2 (dated 7-30-21), Revised Civil Plan C101, C102, & C103 (dated 7-29-21), and Elevation Plan A201 (dated 7-30-21)

**Excerpts from the staff memo:** This hearing is continued from the 7/12/21 meeting to allow time for staff to review recently submitted materials and for the applicant to respond to comments.

The representative, Attorney Dan Brewer, was present on the call, along with applicant Fred Studley, Susan Hoadley and Corina Martinez of Hoadley Martinez Architects, Emily Sanchez of Amy Martin Landscape Design, and Tim Power of PVI Site Design. Dan Brewer briefly updated the Commission and made note of three items; one, the project does propose an increase in impermeable area, however the project proposes a structure on pilings and all rainwater hitting the roof will be channeled into leaching basins under the structure; two, the architects have designed a skirting that will aesthetically blend with neighboring properties yet should provide for unimpeded coastal flowages; and three, the proposal includes over 2700 sf of new native species plantings. D. Brewer concluded with pointing out the relevant regulations and stating that this project meets those regulations.

S.Hoadley of Hoadley Martinez Architects shared her screen with the site plan and explained that, in response to Commission comments at the last meeting, she and C. Martinez had modified the skirting to be fixed rather than breakaway, raised the slats to be 6" - 12" off the grade, and allowed a 3" gap between the 6" fixed horizontal slats. She

pointed out the addition of 2 flood vents to the garage, and 4 flood vents to the garden structure. She noted that the design exceeds compliance with the current 2018 IBC code and the current FEMA tech bulletin.

T. Power of PVI Site Design explained that there weren't many changes to the stormwater since the most recent round of revisions. He stated that there are a handful of leaching basins that will capture all of the rooftop runoff and infiltrate into the ground. He noted that the project meets the stormwater standards and pointed out that on the plan they had provided some metrics on impervious area coverage and roof area.

E. Sanchez of Amy Martin Landscape Design shared the revised planting plan to the screen and pointed out the details added to the plan, including the breakdown of the seed mix from New England Wetland Plant Nursery as well as the quantity and botanical names of the native plants. She stated that the existing planting beds totaled approximately 1,400 sf and the proposed planting areas would total approximately 2,700 sf, with the difference being an increase of approximately 1300 sf of plant beds for mitigation.

For the Commission's consideration, the ACO reviewed in detail a further breakdown of the impervious and pervious surfaces by sf in the 50 and 100 ft buffers and typical mitigation expectations. The ACO stated that due to a decrease in impervious in the 100 ft buffer there was no mitigation expected in this category. Detailing the mitigation expectations within the 50 ft buffer, the ACO concluded that in the ideal situation, the total expectation for mitigation on the property would be 4,458 sf. She clarified that the total new planting area proposed is 1,272 sf. She noted that it's obvious that, as designed, there isn't room on the lot to meet the expected mitigation. She would not suggest that a homeowner make the whole lot plantings but suggested that consideration could be made for some area to be pulled back to allow for more mitigation. She pointed out that the oceanside decks are proposed within 2 ft of the Coastal Bank, compared to 11 ft to the existing house, and consideration could be given to reduce those.

The ACO concluded with a comment in regards to Land Subject to Coastal Storm Flowage, acknowledging that while there were positive changes made to improve the skirting, she noted that staff's recommendation had been to have no skirting at all. She added, in her opinion, that would be the ideal, in order to have true free passage of floodwaters, but recognizes that the regulations do not specify that. She described one draft condition of the staff memo for the Commission to consider, that provided some options; if they were satisfied with the skirting as proposed, if they wanted no skirting or if they wanted skirting only on three sides leaving the side facing the ocean open.

Brief discussion followed regarding the mitigation calculations, the quality of the landscape plan with the use of native plants and seed mix, and the size constraints on the lot with the proposed house.

The Vice Chair invited discussion regarding the option of allowing the skirting as proposed on 3 sides, with the elevation above grade leaving a space at the bottom, and leaving the side to the ocean open. She acknowledged the architect's point that it met the FEMA and building code regulations, but noted climate change, rising sea levels and likely more ferocious seas for the Commission to consider. Responding to a Commission question, C. Martina explained that because the site varies, the 6" gap was mostly on the street side of the property and the ocean side would likely have more of the 12" inch gap. C. Martina reiterated that the square inches left open exceeds the requirements for open area for flowage. The CO stated that FEMA also considers floating debris and what that might get stuck on in a flood event. She added that they consider even a split rail fence to be an impediment to flood waters as debris can get caught in the fence and, with enough gathering debris, there can be a complete blockage. She stated that an advantage to having the ocean side of the house open is that debris would have an opportunity to flow back out into the ocean; it would not get hung up on panels, blocking any gaps left open for floodwaters and potentially pushing floodwaters to the left or right rather than under the house. C. Martinez stated that the code was changed in 2018 to a 3 inch gap to rectify the issue of debris. D. Brewer pointed out that the property is located in a fairly protected inner shore of the harbor and not facing the full brunt of a Nor'easter. Comm'r Hidell expressed his concern regarding debris causing a blockage noting that it wouldn't require a Nor'easter for that to happen. Responding to a question from the Commission, F. Studley stated that when they bought the property, they'd asked the abutters about flooding and heard that there was no significant flooding on that property or the others; there was some light flooding but that was rainwater from the hill and street.

F. Studley asked about the mitigation ratios, what has been 'typical' for the Commission, and how long the practice has been done, noting that, formative in their decision making for the purchase of the property, they'd observed other recently built houses in that area and it didn't appear that the Commission was using a 2:1 mitigation standard. The Vice Chair stated that in her experience on the Commission there have been a number of waterfront properties for which the Commission has paid close attention to mitigation. The ACO read out portions of the general standards in the regulations that relate to buffer zones and added that she's been with the town for nearly three years

and, throughout that time, the Commission has been asking for mitigation. The CO explained that there has been an effort to be more consistent with applicants and projects, to be asking the same of everyone, and to get it in writing so that all are referencing the same document and expectations are publicly known. She further described the buffer zone, the benefit of mitigation, the Commission's use of mitigation standards and the interest in finalizing a draft policy. D. Brewer pointed out the lack of specificity in the regulations, acknowledged the Commission's authority to apply less formal standards, emphasized to the Commission that the site is limited, and stated that what is proposed is a major upgrade over the existing conditions and the proposed mitigation plan will promote the resource values.

The Commission was in agreement that they were okay with the proposed mitigation considering the constraints on the lot. The Commission also agreed that the ocean side of the house should remain open. Brief discussion and drafting of a 4<sup>th</sup> finding followed. The ACO briefly reviewed certain draft conditions, suggesting the deletion of one (requiring submittal of a revised mitigation plan), and an edit to another to specify that the ocean side of the house remain open with no skirting.

Vice Chair Kelly invited any comments from the public. With no comments from the public, Vice Chair Kelly closed the hearing to public comment.

**Motion:** Vice Chair Kelly moved to issue an Order of Conditions for 185 Downer Avenue, Mass DEP 034-1416, and adopt the findings of fact a through d and special conditions 21- 51 of the staff report as amended.

*(Findings and conditions below reflect the discussion 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 confirms the delineation of Coastal Bank and Land Subject to Coastal Storm Flowage, but makes no finding as to the exact boundaries of other wetland resource areas.
- d. The Commission finds the proposed project to be reasonable under the regulations due to the location of the coastal bank, the shape, and the size of the lot.

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 plans, 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, revised architectural and structural plans shall be submitted to the Commission for review and approval. The revised plans shall depict and note, where applicable, a total of seven (7) flood vents for the approved garage and a total of four (4) flood vents for the existing garage to be renovated. Flood vents shall be positioned on all four sides of each structure.
- 28. Prior to the start of any excavation or construction, copies of permit(s) from the Department of Public Works for work within the Town's roadway right-of-way, as applicable, shall be submitted to the Commission.

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. 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 demolition and excavated material shall be properly disposed of at an off-site location.
32. Any on site dumpsters shall not be located within 25 feet of any resource area.
33. There shall be no stockpiling of soil or other materials within 25 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, shall take place within 25 feet of any resource area.
37. The area under the house shall remain free of all obstructions, and open slat skirting shall only be installed along three sides of the new house structure, with the eastern side along the Coastal Bank remaining open. This condition shall apply in **perpetuity** and shall not expire with the issuance of a Certificate of Compliance.
38. Flood vents in the approved garage and the existing garage to be renovated shall be installed in accordance with the final approved plans.
39. Rooftop runoff from the approved house shall be infiltrated on site, in accordance with the final approved plans.
40. The area under the approved house and decks shall consist of a crushed stone and rip-rap surface, in accordance with the final approved plans. No changes in grade area permitted. This condition shall apply in **perpetuity** and shall not expire with the issuance of a Certificate of Compliance.
41. The mitigation areas plantings shall be installed, and seeding completed, in accordance with the final approved landscape plan.
42. Before executing any change from the plan 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.
43. 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 proximity to Hingham Harbor, which is a state-listed 303(d) impaired waterway, and the importance of the surrounding resource areas to water quality and sensitive coastal and marine habitats. This condition shall apply in **perpetuity** and shall not expire with the issuance of a Certificate of Compliance.
44. The use of pesticides, herbicides, and fertilizers shall be prohibited on this property because of its proximity to Hingham Harbor, which is a state-listed 303(d) impaired waterway, and the importance of the surrounding resource areas to water quality and sensitive coastal and marine habitats. This condition shall apply in **perpetuity** and shall not expire with the issuance of a Certificate of Compliance.
45. It is the sole responsibility of the owner of record to maintain drainage structures at all times. The property owner shall comply with the approved Long-term Operation and Maintenance Plan, prepared by PVI Site Design, LLC and dated 6/2/21. 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. In accordance with 310 CMR 10.30(3), promulgated under M.G.L. c. 131, § 40, the existing coastal engineering structure, consisting of a vertical stone seawall, may be maintained, repaired, or replaced, but not substantially changed or enlarged in order to protect the project allowed by this Order of Conditions. This condition shall apply in **perpetuity** and shall not expire with the issuance of a Certificate of Compliance.

47. 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.
48. 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.
49. Prior to the issuance of a Certificate of Compliance, an Elevation Certificate shall be prepared and submitted to the Commission for review.
50. 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.
51. The mitigation planting areas shall be maintained with native plantings or shall be allowed to naturally revegetate with native species following planting and remain as naturally vegetated. 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 Hidell: aye and Comm'r Roby: aye and Vice Chair Kelly: aye

### **7 Winona Way** – DEP 034-1418, continued from 7/12/21

Applicant: Paul Martel

Proposed: Construction of a garage and addition

*Meeting Documents & Exhibits: Staff memo and Site Plan dated 7-20-21*

*Excerpts from the staff memo: A linear 1,075 sf mitigation planting area with trees, shrubs, and seeding is proposed in the 50ft buffer along the rear and partway up the sides of the property. Gutters and downspouts are proposed to be directed to a deep stone infiltration trench along the addition and garage for rooftop runoff, and stormwater calculations were provided showing infiltration of the 2-year storm. Driveway runoff is proposed to be directed to an area drain to the stone trench. Work would take place in the 100ft buffer, with the exception of the mitigation plantings.*

*This hearing is continued from the 7/12/21 meeting to allow time for staff to review recently submitted materials and for the applicant to respond to comments. Since then, a revised plan (dated 7/20/21) was submitted. Staff has no additional comments.*

Applicant Paul Martel was present on the call and summarized the progress made since the last meeting including; an engineer was hired and a signed and stamped plan submitted, a drip edge with a trench drain was added to handle rooftop runoff, and the breakdown of impervious calculations & an erosion control line were added to the plan. He pointed out that no work was proposed within the 50 ft buffer and that the proposed 1:1 mitigation area exceeded the amount of new impervious area.

The ACO stated that she was satisfied with the changes to the plan and that the proposed mitigation as shown on the plan reflected her comments to the applicant; submittal of an additional mitigation plan was not necessary. The Commission expressed its satisfaction with the project.

Vice Chair Kelly invited any comments from the public. With no comments from the public, Vice Chair Kelly closed the hearing to public comment.

**Motion:** Vice Chair Kelly moved to issue an Order of Conditions for the proposed work at 7 Winona Way (DEP 034-1418), 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 makes no finding as to the exact boundaries of 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. 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. Any debris, which falls into any resource area, shall be removed immediately by hand and properly disposed of at an off-site location.
29. All lawn waste, brush, leaves, or other materials dumped in any resource area, including the buffer zone, in particular the area of yard waste shown on the final approved plan, 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.
30. All 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. 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, shall take place within 50 feet of any resource area.
36. Rooftop runoff from the approved addition and garage shall be infiltrated on site, using a stone infiltration trench as shown on the final approved plan.
37. Driveway runoff shall be directed to an area drain as shown on the final approved plan.
38. The mitigation area plantings shall be installed, and seeding completed, in accordance with the final approved plan. The existing maintained lawn within the mitigation area shall be turfed off prior to adding loam as needed, and planting and seeding.
39. Before executing any change from the plan 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. 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.
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 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.
44. The 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. 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 Hidell: aye and Comm’r Roby: aye and Vice Chair Kelly: aye

#### **6 Catha Lane** – DEP 034-1419

Applicant: George & Nesima Bartlett

Representative: Cameron Larson, Environmental Consulting and Restoration, LLC

Proposed: Installation of a pool and associated improvements, an irrigation well, and garage addition

Meeting Documents & Exhibits: Staff memo, Septic Map, Landscape Plan, and Site Plan

Excerpts from the staff memo: *The purpose of this Notice of Intent is to evaluate the potential impacts of installing a pool, spa, permeable patio, deck, outdoor shower, reconstructed deck, retaining wall, fencing, expanded garage and associated expanded paved driveway, irrigation well, and plantings, including mitigation plantings. Most of the work would take place in the 100ft buffer to a Bordering Vegetated Wetland, with the exception of the well, which would be roughly 28ft from the BVW, and mitigation plantings. There would be 2,430 sf of new structures/hardscape in the 100ft buffer. A mitigation planting area of 2,950 sf is proposed, consisting of 875 sf of shrub plantings, and 2,075 sf of herbaceous plantings.*

*Staff visited the site on 7/20/21. Wetland resource areas were flagged by a wetland scientist in April 2020. Only some flags were present, though much of the wetland directly abuts a maintained lawn area. The area where work is proposed currently consists of lawn and an existing deck. The lawn slopes gently to the wetland and appeared very wet with standing water near the wetland at the time of the site visit.*

Representative Cameron Larson was present on the call along with applicant, George Bartlett. C. Larson shared the existing conditions plan to the screen and described the existing conditions, the wetland resource areas and noted that the proposed work occurs only in the buffer zone and in areas that are previously developed or maintained as lawn. C. Larson shared the site plan to the screen and pointed out the various proposed improvements. He noted the only proposed improvement within the 50 ft buffer would be the irrigation well and explained that the well had to be located 100ft from the septic system and outside the root zones of trees in the area. He stated that the design includes pervious pavers, the outdoor shower will be connected to indoor plumbing, and crushed stone will be used under the decking. The impervious surfaces include the retaining wall, garage, and the driveway extension. C. Larson shared his screen with an image of the site with a color coded breakdown of pervious and impervious areas, summarized that the total impervious within the 100 ft buffer would be 1270 sf, and explained that a 2900 sf mitigation native planting area within the 50 ft buffer is proposed. The mitigation would include turfing off that portion of the existing lawn and planting it with natives per a design by Boston Skyline.

The ACO noted that revised materials and responses to comments had arrived too late the prior week to be incorporated into the staff memo, however the revisions reflected a lot of her comments. She commended the mitigation plan noting that the wetland is very close to the existing lawn. She suggested that the irrigation well might still be shifted further south and that consideration could be given to mitigate the rooftop runoff from the garage

addition. Brief discussion regarding the relocation of the well followed with the Vice Chair suggesting that a condition related to feasibility be included, recognizing that there are multiple factors involved. Responding to a question, C. Larson stated that they'd included a note that, although not anticipated, if the pool water were to ever need to be drained, it would be handled by a pool company and be either trucked offsite or discharged in the lawn area on the far side of the building. Commissioner Hidell expressed his preference that a condition reflect that in the Order as it is a sensitive location.

Vice Chair Kelly invited any comments from the public. There were no comments from the public.

**Motion:** Vice Chair Kelly moved to continue the hearing for 6 Catha Lane (DEP 034-1419) to August 23, 2021.

**Second:** Comm'r Mosher

**Roll Call:** Comm'r Hidell: aye and Comm'r Roby: aye and Vice Chair Kelly: aye

### **227 Otis Street** – DEP 034-XXXX

Applicant: Kathryn Curran

Representative: Alan Loomis, McKenzie Engineering Group, Inc.

Proposed: Reconstruction of an existing dock and construction of a new ramp and float

*Meeting Documents & Exhibits: Staff memo, Narrative, and Plan*

*Excerpts from the staff memo: The purpose of this Notice of Intent is to evaluate the potential impacts of reconstructing an existing 20.5ft x 20.5ft fixed pier, but not replacing the existing pilings, and installing a new 3ft x 18ft structural ramp, and a new 8ft x 10ft float with legs and skids with at least 24" between the float and skids. The reconstructed pier and the new float would be constructed with ACQ (alkaline copper quarternary) pressure-treated lumber, and the ramp would be galvanized steel or aluminum. The bottom of the two skids would total 8sf in area.*

*Staff visited the site on 7/22/21 at high tide and on 7/27/21 at low tide. Wetland resource areas were not flagged, however there is a sloped rip-rap wall and the top of this serves as the Coastal Bank on this property. The landward side of the existing dock rests on the ground surface at the top of the bank, and the seaward side is supported by three existing wooden pilings. There is a small fringe of Salt Marsh consisting of *Spartina alterniflora* (cordgrass) around the pilings and along the bottom of the rip rap slope. There was evidence of shellfish (shells) on the Tidal Flats at low tide. Two kayaks were observed tied to the existing pilings at low tide and resting fully to partially on the Salt Marsh plants. Staff provided the following comments to the representative, and received responses to comments (below in italics) and a revised narrative. Commissioners should refer to the complete narrative for details. Staff did not have time to fully evaluate the additional information provided prior to preparing the staff memo. A revised NOI form with updated resource area impacts was also provided based on staff comments.*

Vice Chair Kelly invited the representative, Al Loomis, to present the project, noting that a DEP number had not as yet been issued. Al Loomis, Mckenzie Engineering Group, Inc. described the locus within Walton's Cove and how it completely drains at low tide, and described how difficult it is for the homeowners to access the water currently. He described in detail the proposal which would allow the homeowners to access the water in a high tide situation only. The existing deck/dock is to be replaced in the same dimensions, 20.5' by 20.5' and utilize the 3 existing piers. The proposed float, sized 8' by 10', would be a wooden structure on two skids (4" by 6" timber) preventing the float from resting on the mudflats during low tide; with 2 ft between the skid bottom and the float. The homeowners would use the float to access the water with their kayaks and when not in use, the kayaks would be stored on the float. The float would connect to the existing fixed pier using a 3' by 18' 'structural ramp', which would be attached with brackets on each end of the ramp, providing lateral support to the float, preventing it from moving from side to side. A. Loomis explained that the benefit of this design is that it prevents scouring by keeping the skids stationary and this design does not require any piles to be driven. He described the tide in this location as being low flow, which would mean there would not be lateral stresses on the float nor scouring.

A. Loomis explained that the float and gangway would be constructed offsite and be floated into place at high tide. The seasonal removal and installation of the float and gangway would be done in this manner also, therefore preventing any potential damage to the coastal bank.

Vice Chair Kelly thanked A. Loomis for his presentation. The ACO added that it had answered some of her questions. She noted that she'd not had time to fully review the most recently submitted materials and that draft conditions had not been prepared. The Harbormaster had been contacted to provide comments but as yet, had not

been received. She added that storing the kayaks on the float was better than having them rest on the small amount of Salt Marsh. The ACO asked for more details to be provided on the construction process. She added that, due to the presence of Salt Marsh, it would be likely that the Commission would condition spacing of the boards to allow light through on both the gangway and the float and that likely a contribution to the Shellfish fund would be required. The Commission did not have any questions at this time.

Vice Chair Kelly invited any comments from the public. There were no comments from the public.

**Motion:** Vice Chair Kelly moved to continue the hearing for 227 Otis Street (DEP 034-xxxx) to August 23, 2021.

**Second:** Comm'r Mosher

**Roll Call:** Comm'r Hidell: aye and Comm'r Roby: aye and Vice Chair Kelly: aye

Other Business:

- a. Discussion and vote re: the appointment of a Climate Action Planning Committee (CAPC) representative  
Vice Chair Kelly explained to the Commission that Chair Freeman had indicated her interest in being the representative for the CAPC. No other Commissioner expressed interest in being the representative.

**Motion:** Vice Chair Kelly nominated Chair Freeman to be the Commission's representative to the Climate Action Planning Committee.

**Roll Call:** Vice Chair Kelly: aye, Comm'r Roby: aye, Comm'r Hidell: aye and Comm'r Mosher: aye

- b. Discussion of next steps re: the current regulations and the proposal to repair and expand the Hingham Harbor wharf walls

Present on the call for this other business item, were J.R. Frey, Town Engineer, and Marco Boer, Vice Chair of the Harbor Development Committee. The CO explained that Comm'r Hidell had suggested that the Commission discuss the next steps. Comm'r Hidell spoke about the board needing to review and revise the existing regulations regarding the interface of the sea and land. He noted that the report from the Woods Hole Group was either issued or soon to be issued with some proposals for the work to be done. M. Boer stated that they anticipate getting the final version of that report within the next week. Comm'r Hidell urged that the report be shared with the Commission as soon as it's released.

The CO added that the Commission might consider setting up a separate meeting from their project based agendas, in order to have a discussion and the time to dig in on the topics. Brief discussion followed regarding scheduling and public notification.

Adjournment 9:02 PM:

**Motion:** Vice Chair Kelly moved to adjourn the meeting.

**Second:** Comm'r Mosher

**Roll Call:** Comm'r Hidell: aye and Comm'r Roby: aye and Vice Chair Kelly: aye

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

Sylvia Schuler, Administrative Assistant

Approved on September 27, 2021

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