



MANCHESTER-BY-THE-SEA

CONSERVATION COMMISSION • TOWN HALL
Manchester-by-the-Sea, Massachusetts 01944-1399
Telephone (978) 526-4397 FAX (978) 526-2001

Conservation Commission Meeting

May 4, 2021

Zoom Virtual Meeting ♦ 6:30 PM

MINUTES

I. Call to Order

Members Present: David Lumsden, Henry Oettinger, Sari Oseasohn, John Judge, Olga Hayes, and Conservation Agent, Chris Bertoni.

Members Absent: Steve Gang, Joe Puopolo

Conservation Vice Chairperson Ms. Oseasohn opened the meeting at 6:33 pm under the Wetlands Protection Act and Town by-law. She announced that it was being recorded by the Commission. This was a virtual meeting.

II. Requests for Certificates of Compliance

19 Central Street, Charles Benevento/19 Central Street, LLC – restorative enhancements: installing native vegetation, relocating stone retaining wall & boulders, relocating brick patio

Continued from 4/13/21

DEP File #39-0778

Ms. Bertoni informed the Commissioners that the consultant was on vacation and that a continuance to the next meeting would be appropriate. There is an extension in place.

Vote: To continue the matter to the 5/25/21 meeting.

Motion: Ms. Oseasohn

Second: Mr. Oettinger

Actual Vote: 5-0

128 Bridge Street, Peter & Victoria Morton – construction of an addition to an existing single-family home, portions of which are proposed within the 100' Buffer to Bordering Vegetative Wetland, installation of native plantings

New

DEP File #39-523

Mary Rimmer of Rimmer Environmental Consulting presented. Homeowners were in attendance. An Order of Conditions was issued in 2006 for an addition to the house, a patio and driveway work. The addition was completed. The patio and driveway were never done. Ms. Bertoni did a site inspection. There is an as-built plan, a letter from the engineer and all appeared in order. The only issue was that there was 640 s.f. of mitigation proposed and only 300 s.f. was done. Ms. Rimmer asked to waive this requirement since there will be a Notice of Intent forthcoming that has 2000 s.f. of mitigation planned. Ms. Bertoni had no issues with the project. The site is stable and appeared to be built as planned.

Vote: To issue a Certificate of Completion with three perpetual conditions.

Motion: Ms. Oseasohn

Second: Ms. Hayes

Actual Vote: 5-0

III. Recess for Public Hearings under Wetlands Protection Act and Local Wetlands By-Law

IV. Requests for Determination of Applicability

50 Raymond Street, Paul Hennigan – for repair & installation of new perimeter fence within the 100', 50' No Build Zone, 30' No Disturb Zone Buffers to and in Bordering Vegetated Wetland

New

2021-0007

Paul Hennigan, homeowner, presented. He proposes to repair existing fences on the property line. The primary reason is for safety and privacy. The family has a new puppy and there are grandchildren. The plan submitted is from a 2014 Notice of Intent from DeRosa Environmental Consulting. John Morin was the civil engineer on it. The proposed plan involves repair and replace existing fence, adding new stockade fencing approximately 480' into the wetland. The fence posts will be 1 s.f. of impact. The total impact will be eight 4x4 posts. A pole digger will be used. He would leave enough area underneath the fence for critters to pass. The fence will be inside the boundary lines. Ms. Bertoni does not see a need for an engineer. She had received a letter of support from Chuck Johnson Engineering on behalf of abutter David Bell dated 5/4/21. Per Mr. Hennigan another abutter, Jeff Karpowich, also gave support to the project.

Vote: To issue a Negative 2 and Negative 3 Determination of Applicability with conditions.

Motion: Ms. Hayes

Second: Mr. Judge

Actual Vote: 5-0

V. Abbreviated Notice of Resource Area Delineation (ANRAD)

0 School Street (map 43, lot 18), Geoff Engler, SLV School Street LLC – request for confirmation of boundary delineation of Bordering Vegetative Wetland (approximately 4,010 linear feet of boundary)

Continued from 10/13/20, 11/3/20, 11/24/20, 12/15/20, 1/9/21, 2/9/21, 3/2/21, 3/23/21, 14/13/21

DEP File #39-0834

Dan Wells of Goddard Consulting presented. Mike DeRosa of DeRosa Environmental Consulting in attendance. The updated final ANRAD Plan dated 4/27/21 was submitted. There were some changes noted. There is an Isolated Land Subject to Flooding (ILSF) in the A-series bordering vegetated wetland (BVW), D-series BVW at the north end of the property, E-series BVW runs to mean high water flags, the F-series BVW borders on river and Riverfront is on the north end and it is Sawmill Brook to mean high water. Wetland C was previously looked at. It is included but does not meet wetland requirements. There is a change from last time regarding the B-series wetland. The channel/ditch that extends southward is not a wetland. There is a ½ acre that is ILSF. There is no evidence of wetland soils in the steep area. Mr. Wells requested the Commission approve this updated plan only under the State Wetland Protection Act and not under the local bylaw.

There was a Vernal Pool survey of the property and vicinity. Mr. Wells did the critical survey and egg counts with Mr. DeRosa on 4/2 and 4/9/21. They found three separate onsite vernal pools. In the B-series ILSF there were a lot (over 100 each) of wood frog and salamander egg masses. In the A-series two vernal pools were found with small amounts of salamander egg masses (13 in one, 18 in another). There were some egg masses found next to the river, but they did not meet the physical definition of a vernal pool. The conclusion is there are three certifiable vernal pools on the property that are reflected on the plan. Offsite pools were not certifiable. Mike DeRosa, peer reviewer, presented his findings. He was surprised at the density of egg masses in Vernal Pool B which all looked like Yellow Spotted Salamander. He agreed with Mr. Wells regarding the vernal pool work. However, he felt that the A-series could function as a vernal pool habitat if there were more rain or snow melt. He agreed with the B-series as an ILSF. He agreed with wetland C to the mean high water. He agreed with the D and F series as BVW functioning as a vernal pool habitat. Before signing off he would like to look at the ravine area. He would like to see vegetation come up to see if it is wetland vegetation. He will have final report ready for the 5/25/21 meeting.

Elizabeth Pyle of Hill Law representing MECT asked to keep the hearing open until Mr. DeRosa submits his final report and has been accessible to the public for review. It could determine an additional wetland in the ravine area.

Vote: To continue the matter to the 5/25/21 meeting.

Motion: Mr. Judge

Second: Ms. Hayes

Actual Vote: 5-0

VI. Notice of Intent

21 Proctor Street, Thomas “Colby” & Laura West – request to install four greenheart piles for gangway and float and permit an existing wharf within Salt Marsh, Land Under Waterbodies, and Land Subject to Coastal Storm Flowage

Continued from 2/9/21, 3/2/21, 3/23/21, 4/13/21

DEP File #39-0843

Colby West, homeowner, presented. He informed the Commission that Hancock Associates had done a wetland delineation on 3/10/21. He showed a signed survey plan by Jay Jarosz dated 1/23/21. Due to cost he had no new survey plan and no signed wetland plan. Ms. Hayes informed Mr. West that the Commission needed a proper plan with wetland flags laid on by the surveyor or wetlands specialist. Ms. Oseasohn pointed out that the Commission then needed time to review the updated plan that was presented that evening and felt the hearing should be continued. Ms. Bertoni pointed out that the information required is detailed in the Wetland Protection Act and regulations. She also read the comments from DEP on the filing. Mr. West felt the Commission was being discriminatory regarding his rights as a homeowner to do this project. Ms. Oseasohn asked the applicant to send in all the new information he has presented this evening, and that the Commissioner would send Mr. West the information in writing he needs to provide for this project to move forward.

Vote: To continue the matter to the 5/25/21 meeting.

Motion: Mr. Oettinger

Second: Ms. Hayes

Actual Vote: 5-0

144 Summer Street, Steven & Jennifer Athanas – proposed addition to an existing single-family home and after-the-fact permitting for a paved driveway within the 100’ and 50’ No Build Zone Buffers to Bordering Vegetated Wetland

Continued from 3/23/21, 4/13/21

DEP File #39-0846

Steve Athanas, homeowner, presented. The hearing was previously continued due to a DEP file number not being issued. DEP has since issued a file number and there were no further questions.

Vote: To close the hearing.

Motion: Ms. Oseasohn

Second: Ms. Hayes

Actual Vote: 5-0

128 Bridge Street, Peter & Victoria Morton – construction of patio, associated landscaping, reconstruction, and relocation of detached garage within the 100’, 50’ No Build Zone Buffers to Bordering Vegetated Wetland

New

DEP File #39-0847

Mary Rimmer of Rimmer Environmental Consulting, LLC., presented. The homeowners were in attendance. The project is the construction of additional patio area which will expand the existing bluestone patio 11’ further than current patio.; construction of a small retaining wall by the patio; replace the existing garage which is

difficult for cars to park with a garage that intrudes into the No Build Zone and is angled for cars to get in - Griffin Engineering designed this to accommodate the turning radius of a vehicle; and remove the bituminous concrete driveway and replace with crushed shells. There are 2,000 s.f. of native plantings proposed. Laura Lynch did the planting plan. There were no comments from DEP. Commissioners scheduled a site visit for Saturday 5/8/21 at 10:00 a.m.

Vote: To continue the matter to the 5/25/21 meeting.

Motion: Ms. Oseasohn

Second: Ms. Hayes

Actual Vote: 5-0

VII. Reconvene Regular Meeting

VIII. New/Other Business

Open Space And Recreation Committee Memo: Ms. Hayes requested Conservation Commission approval on the OSRC memo re-establishing a Water Resources Protection Committee. It will then be sent to the Board of Selectman.

Vote: To recommend the establishment of a Water Resources Protection Committee to promote measures that protect the water quality of Manchester by the Sea.

Motion: Mr. Lumsden

Second: Mr. Judge

Actual Vote: 5-0

Manchester Tree Policy: Su Yin Bungaard Mittermaier and Sandy Bodmer-Turner presented. A document went into effect in February that established certain restrictions on three types of trees: trees on public land, trees within 11' from the edge of the road, and Heritage trees defined by the feature of having at least a 32" diameter or special historical/cultural distinction. The policy is to provide some protection for these trees. The actions require written approval from the Town Tree Warden before removal of these tree, there will be a hearing before the Board of Selectmen and established a penalty for removing these trees without approval and also be responsible for its replacement. She asks that the Commission require that trees are located on plans that fall under this policy. And if it is a large tree to have dimensions listed. Lastly, if there is the plan for removal of a Heritage tree that the applicant prepare an alternative analysis. She clarifies that the policy does not specifically include language for private property. The Commission would be happy to pass along this policy to applicants.

MECT Story Trails: Temporary placards with stories are being put up along the trail of Powder House Hill. Ms. Bertoni received an email from Sandy Rogers informing her that the installation will run through 6/15/21 with the opportunity to be extended.

Linden Engineering Invoice: This invoice is for the peer review of a small project at the Elementary School. Linden Engineering was the peer reviewers. There are two invoices: one is a lump sum for review up to the Order of Conditions for \$2200, the other is for review of the install of the infiltration system and soil testing for \$2247.50.

Vote: Pay the \$2247.50 invoice

Motion: Ms. Oseasohn

Second: Ms. Hayes

Actual Vote: Unanimous Consent

Vote: Pay the \$2200 invoice

Motion: Ms. Oseasohn

Second: Ms. Hayes

Actual Vote: Unanimous Consent

21 Proctor Street: Aspects of the hearing were discussed, and Ms. Oseasohn informed the Commissioners that she and Chairman Gang would work with Ms. Bertoni to send the applicant a letter/checklist of the items necessary for this filing.

Letter Permits:

2 Putnam Court: for a deck extension in Riverfront.

Enforcement Orders:

38 School Street: Ms. Bertoni has reached out and has not received a response back.

4 Woodholm Road: An unpermitted fence was constructed 28' from inland bank. This is a new owner. The site is stable. Ms. Bertoni will follow up.

12 Plum Hill/Ancient County Way: Brian Harvey drove an excavator from Plum Hill, crossed a wetland, to Ancient County Way. This was a one-time event. Damage was minimal. This was done because Plum Hill Road was blocked due to tree cutting and could not get his excavator through.

IX. Orders of Conditions:

144 Summer Street – The Commission discussed conditions.

Vote: To issue an Order of Conditions with standard, special and perpetual conditions

Motion: Ms. Oseasohn

Second: Ms. Hayes

Actual Vote: 5-0

X. Approval of Minutes - none

XI. Adjournment:

There being no further business, the meeting was adjourned at 9:12 p.m. The motion was presented by Ms. Oseasohn and seconded by Ms. Hayes and approved by unanimous consent.

Submitted by,

Eva Palmer

XII. Meeting Documents:

- Request for Certificate of Compliance – 128 Bridge Street for construction of an addition to an existing single-family home submitted by Peter and Victoria Morton.
- Requests for Determination of Applicability – 50 Raymond Street for repair & installation of new perimeter fence submitted by Paul Hennigan.
- Notice of Intent – 144 Summer Street for proposed addition to an existing single-family home and after-the-fact permitting for a paved driveway submitted by Steven & Jennifer Athanas.
- Manchester Tree Policy.
- MECT Story Trail information.