



# 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 31, 2016

Town Hall, Room 5 ♦ 6:30 PM

## Meeting Minutes

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### I. Call to Order

**Members Present:** Steve Demeter, Steve Jaworski, Olga Hayes, Gary Russell, Joe Puopolo, David Lumsden and Conservation Agent Chris Bertoni.

**Members Absent:** Steve Gang

Co-chair Mr. Demeter opened the meeting at 6:30 pm under the Wetlands Protection Act and Town by-law. He announced that it was being recorded by the Commission. Mr. Demeter quoted Henry David Thoreau, Massachusetts naturalist and conservationist, "It's not what we look at, it's what we see."

### II. Request for De Minimis Changes, Certificates of Compliance & Extensions

#### 1. Jason and Allison Spies

35 Vine Street

Request for De Minimis Change

2015-0012

Continued from 5/10/16

Electronic documents:

Letter for de minimis change to DOA file #2015-0012 on 4416

Mr. Spies, homeowner, presenting. The patio has been removed and area loamed and seeded. A new patio and new staircase was constructed and a shed was added. He requests installation of a 34' picket fence within the Conservation Restriction (which would complete the fence). In the winter dogs and children were able to go right through the brush. The fence would have 5-6 hand dug posts. The Commission determined the fencing has no barrier to wildlife movement and is di minimis.

**Vote:**

To grant the De Minimis Change

Motion: Mr. Demeter

Second: Ms. Hayes

Actual Vote: Unanimous in favor

#### 2. William Dodge

2 Overledge Road

Request for Certificate of Compliance

DEP File #39-0261

New

Electronic Documents:

2 Overledge Rd COC request 39-261

2 Overledge OOC Plan 39-0425  
2 Overledge OOC Plan 39-0261

Mr. Dodge, homeowner, in attendance to answer questions. The Commission had a site visit on 5/20/16. The rock wall is complete but it did not follow the plan. Part of the wall is in wetland. Mr. Dodge received a partial Certificate of Compliance in 2001 and the remainder of the retaining wall was to be completed under a separate Notice of Intent. This Order of Conditions covers work on the east side of the plan and right of the swimming pool.

**Vote:**

To grant complete Certificate of Compliance for 39-0261

Motion: Mr. Demeter

Second: Mr. Lumsden

Actual Vote: Unanimous in favor

The applicant needs to fill out a new Notice of Intent application for the remainder of the wall. There are two options: keep the wall as is, or remove the offending part of wall and build fence and level at 49'. Mr. Dodge requests continuance to the 6/20/16 meeting.

**Vote:**

To continue the matter to the 6/21/16 meeting

Motion: Mr. Demeter

Second: Ms. Hayes

Actual Vote: Unanimous in favor

- 3. David and Mona Taliaferro**  
**19 Proctor Street**  
**Request for Certificate of Compliance**  
Continued from 5/10/16

**DEP File #39-0574**

Electronic Documents:

19 Proctor Street COC As-built 5-23-16

COC cover letter-5-24-16-39-0574 (2)

Mary Rimmer, Rimmer Environmental, presenting. Matt Leahy, landscape designer, in attendance. The Amended Order of Conditions was for a deck, pergola, and front entryway. The pergola has been removed but the deck and entryway were constructed as approved. A surveyor did a new stamped as-built plan for the files.

**Vote:**

To grant the Certificate of Compliance

Motion: Mr. Demeter

Second: Mr. Lumsden

Actual Vote: Unanimous in favor

- 4. David and Mona Taliaferro**  
**19 Proctor Street**  
**Request for Certificate of Compliance**  
Continued from 5/10/16

**DEP File #39-0653**

Electronic Documents:

19 Proctor Street COC As-built 5-23-16

19 Proctor Street-KitchenAddition-5-23-16-432pm

COC cover letter-5-24-16-39-0653 (2)

Mary Rimmer, Rimmer Environmental, presenting. This project was for a kitchen addition off the corner of the house. The work has been done in accordance with the original plan. There is an as-built plan on file.

**Vote:**

To issue a Certificate of Compliance

Motion: Mr. Demeter

Second: Mr. Russell

Actual Vote: Unanimous in favor

**5. Tim Brady**

**Beaver Dam Road**

**Request to extend an Order of Conditions**

**DEP File #39-0662**

New

Ms. Bertoni presenting, Mr. Brady in attendance to answer questions. The project involves a 2-story retail building with parking, drainage systems, septic and landscaping. The project is in 100' Buffer to Bordering Vegetative Wetlands. The Order of Conditions is due to expire on 7/25/16. No work has been done. There has been due diligence on the Order of Conditions.

**Vote:**

To extend permit to 7/25/17

Motion: Mr. Jaworski

Second: Ms. Hayes

Actual Vote: Unanimous in favor

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

**1. Kettle Cove PC&J, LLC**

**Surf Village**

**Raymond Street, Manchester/10 Magnolia Avenue, Gloucester**

**Request for Determination of Applicability**

**2016-0013**

New

Shawn Malone a civil engineer for Oak Consulting Group, presenting. The project is 2 buildings each with 3 units, with garages and guest parking, outside the 100' buffer to Bordering Vegetative Wetlands. The lot is contiguous with property in Gloucester. A new septic upgrade, sized for 24 bedrooms, has been permitted and will be entirely in Gloucester. The plan is to raze the existing buildings. The new buildings will be condos. A drainage system has been designed. There are several infiltration basins upland from the buffer zone. The wetland was flagged in February by Tom Hughes. The storm water management plan was given to the Planning Board and will be peer reviewed. Mr. Malone is requesting confirmation of the delineated wetland line. Mr. Demeter would like a wetlands scientist with no conflict of interest to peer review the delineation. There is some grading proposed in the lower corner of the project. Some Commissioners are concerned about runoff and suggest putting sedimentation barriers between property and Surf Park. Ms. Bertoni suggests a site visit with Tom Hughes. A site visit is planned for 6/2/16 at 5:30 p.m. Mr. Malone requests a continuance.

**Vote:**

To continue this matter until the 6/21/16 meeting

Motion: Mr. Demeter  
Second: Ms. Hayes  
Actual Vote: Unanimous in favor

- 2. Anthony Ranaldi**  
**17 Brook Street**  
**Request for Determination of Applicability** **2016-0015**  
New

Doug Cook, LanDesign, presenting, homeowner in attendance. The front porch is currently being constructed. The project is to pave 1600 sq. feet of driveway and install a 1000 gallon drywell to accommodate the runoff in the outer 100' riparian zone of Riverfront. Mr. Demeter points out that the plan does not appear to be to scale, resource areas are not delineated, and grades are not shown. It does not show how the proposed driveway will drain to the well. He feels that the drywell is substantially ineffective where the applicant wants to put it, near the house. He suggests alternative such as a Cultec drain. Mr. Cook plans on grading and contouring. Ms. Hayes would like to see drawings with contours to see where water is going. Ms. Bertoni needs calculations on runoff from new impervious surfaces on file with the grading. She explains the porch looks great and **plantings are going it**, but the Commission has concerns with how the water will get to the dry well as well as front of house roof runoff. The applicant asks for a continuance.

**Vote:**  
To continue this matter to the 6/21/16 meeting  
Motion: Mr. Demeter  
Second: Ms. Hayes  
Actual Vote: Unanimous in favor

- 3. Jeffrey J. Kaneb**  
**9 Tuck's Point Road**  
**Notice of Intent** **DEP File #39-0732**  
Continued from 3/29/16, 5/10/16

Electronic Documents:  
3855.0 Kaneb NOI-COMP SCAN-NOI Submitted 3.14.16 to MCC

Ms. Bertoni talked to the representative and they would like to continue this to the 7/19/16 meeting. An Enforcement Order update, the representative is looking to identify large caliper trees that were removed. Several Commissioners would like a site visit. Mr. Demeter would like to discuss at a later point about possibility of sending names of people who disregard conservation by- laws to the state where they may be heavily fined.

**Vote:**  
To continue this matter until the 7/19/16 meeting.  
Motion: Mr. Demeter  
Second: Mr. Russell  
Actual Vote: Unanimous in favor

- 4. David and Mona Taliaferro**  
**19 Proctor Street**  
**Notice of Intent (response to EO)** **DEP File #39-0734**  
Continued from 5/10/16

Electronic Documents:  
Alternative Analysis  
Wetland Buffer Planting Plan 3 29 16  
Hancock-S1 (2)  
Quick4 High Capacity Chamber  
TalilaferroNOIsetpatio

Mary Rimmer, Rimmer Environmental, presenting; Matthew Leahy, Leahy Landscaping also in attendance. This Notice of Intent is in response an Enforcement Order for unpermitted work in a resource area. Ms. Rimmer showed a photo and (1994) plan of the area prior to the construction. The Commission had requested alternatives analysis. The porch is already within the existing area so it is the least impactful the only other options are nearer to a resource or affects setbacks. The Cultec chamber (installed beneath the patio) and landscape plan help mitigate. The landscape plan proposes native shrub, grasses and wild flowers, high wildlife value and high salt tolerance. Mr. Demeter feels this plan is the least likely to have environmental impact. The surface is now permeable, and he feels we should grant the request.

**Vote:**

To close the hearing  
Motion: Mr. Demeter  
Second: Ms. Hayes  
Actual Vote: Unanimous in favor

Special conditions discussed:

- Erosion controls
- No storage in resource area
- Do usual tree removal for remaining Oak tree.
- Two year growing season
- Ongoing condition: No herbicide

**Vote:**

To grant an Order of Conditions with the above mentioned conditions.  
Motion: Mr. Demeter  
Second: Mr. Russell  
Actual Vote: Unanimous in favor

**5. Tim Brady**

**Beaver Dam Road**

**Request to Amend Order of Conditions**

**DEP File #39-0662**

New

Electronic Documents:  
Full\_Application\_Package

Brian Yergatian, civil engineer, from BSCU Group presenting. An Order of Conditions was granted on 7/2013 for a 12,000 sq. foot, two story building. The 1<sup>st</sup> floor was going to be Cape Ann Storage and the 2<sup>nd</sup> floor was to be a gymnastic studio (Iron Rail). Since then the gymnastic studio has backed out. Now, the plan is to have the same building in the same location which will be all self-storage. There are many things previously approved that are no longer needed. The biggest change is he no longer needs septic or water service. There is also no need for a paved parking area. There is no need to touch rock base or tree area (previously permitted). Therefore there will be more pervious

area. The drainage area will be reduced by a third. And all run off will be collected in a trench drain and moved to drainage system and three over flows. Two rain gardens are proposed as enhancements and to catch any run off from the berm. Everything disturbed will be loamed and seeded. Commissioners would like to see that no hazardous wastes are allowed to be stored. Cape Ann Storage does not allow hazardous waste. Stormwater calculations have been revised. The owner will reach out to the Trustees of Reservations (abutter) for comments.

**Vote:**

To amend the Order of Conditions  
Motion: Mr. Demeter  
Second: Ms. Hayes  
Actual Vote: Unanimous in favor

**6. Miranda Gooding/Bolena LLC  
5 Proctor Street  
Notice of Intent (response to EO)  
New**

**DEP File #39-0737**

Electronic Documents:  
Scan NOI 19288  
Narrative for 5 Proctor NOI  
Conservation restriction memo  
19288 16May16 revision

John Dick of Hancock Associates presenting. This Notice of Intent is a result of an Enforcement Order issued on 4/21/16 regarding unpermitted work. The issue is landscaping within the buffer to the salt marsh. The site is more stable than it was. Hundreds of native plants are being used. What is not permitted yet is the plastic around the trees, which has been removed and plantings have already been planted next to the salt marsh because the pallet of plants arrived and the landscaper put them immediately in the ground. They are being planted by hand and a wheel barrow is being used to move things around. The landscape architect is Doug Cook from LanDesign. There is an area that has been mowed since the 90's. The owner no longer wants to mow it. It was recommended to put down a wildflower mix with a salt tolerance mix. A silt fence is in place because the owner would like to replace the septic system (outside resource area and buffers). Mr. Dick points out that there is a Conservation Restriction on the land. Ms. Bertoni would like a note of explanation on the plan as to where the Conservation Restriction and edge of Salt Marsh are located.

**Vote:**

To close the hearing  
Motion: Ms. Hayes  
Second: Mr. Demeter  
Actual Vote: Unanimous in favor

Commissioners discuss conditions:

- The planting area (3000 sq. feet) in perpetuity.
- No mowing.
- No herbicides.

**Vote:**

To issue an Order of Conditions with above mentioned conditions.

Motion: Mr. Demeter  
Second: Ms. Hayes  
Actual Vote: Unanimous in favor

#### **IV. Enforcement Orders**

##### **19 Proctor Street**

**Vote:**

To lift Enforcement Order  
Motion: Mr. Jaworski  
Second: Mr. Demeter  
Actual Vote: Unanimous in favor

##### **5 Proctor Street**

**Vote:**

To lift Enforcement Order  
Motion: Mr. Jaworski  
Second: Mr. Lumsden  
Actual Vote: Unanimous in favor

##### **20 Washington Street**

John Mussachia, homeowner, presenting. Mr. Mussachia bought home and was renovating and doing an addition. Stone Works was doing the excavation and suggested that all the excavated material go in the back. They were unaware they were disturbing a resource area. Bill Manuel, wetland scientist, went out and determined it was a wetland. This is a buffer to an intermittent stream. No materials were brought in from off-site as far as the owner is aware. A detached garage/shed was removed. Mr. Demeter viewed the site from The Cricket's back lot. He observed:

- No permits for work done.
- Filling next to an Intermittent Stream
- Filling in Buffer Zone
- Filling with asphalt and concrete and other demolition materials
- Processing (crushing and remove rebar)
- No notice to Department of Health and DEP
- Installation of a single point drain to Intermittent Stream (no permit)
- Discharging untreated run off

Mr. Demeter felt this action was most egregious since Mr. Mussachia is a former Conservation Commission Board member. He feels a Notice of Intent is in order. The pipe and fill need to be removed and the area needs to be restored. Ms. Bertoni spoke with Bill Manuel who recommends a silt fence. There may be 3-4' of fill that has been pushed down. The soil probes might tell how much to be removed. Bill Manuel has flagged an area of 120'. Applicant is asked to submit a remediation and restoration plan with Bill Manuel to Ms. Bertoni. The pipe and fill must be removed within 100' Buffer Zone. A plan must be submitted by 6/21/16 that can be approved. Mr. Mussachia said he would do what needs to be done to make this right.

**Vote:**

To extend Enforcement Order to 6/21/16 at that time applicant must submit action plan for remediation and restoration.  
Motion: Mr. Jaworski  
Second: Mr. Russell  
Actual Vote: Unanimous in favor

## **V. Old/New Business**

### **1. 7-11 Norton's Point Road**

Ms. Bertoni informed the Commission that she received a letter from Kathy Leahy, MECT, 5/17/16, that stated the proposed project for Judith & William Meany at 7-11 Norton's Point Road, is in compliance with the Conservation Restriction on that property.

### **2. 18 Brook Street**

The issue is bamboo spreading into abutter's yard. The owner of the bamboo has removed it from her side. She has a letter from a bamboo specialist that states if the neighbor cuts down the bamboo it will start to die. Ms. Bertoni feels the Conservation Commission should be out of this issue.

### **3. Update on Boat Ramp**

Empire (contractor) has left and removed all its equipment. The turbidity curtain boom is not in place. The harbormaster will look for the boom and try to connect to curtain. The DPW is doing cleanup today (5/31/16), although a lot of sand and dirt, etc. went into the harbor after Empire left.

### **4. Central Street Culvert**

During the first round there were no bids for work. During the second round there were five bids. The job will be awarded at the end of the week.

### **5. Tuck's Point Sea Wall**

No work has started. DPW is waiting on the re-bid.

### **6. Planning Board asked for comments**

The Planning Board has asked for comments on Surf Park/Raymond Street construction. Ms. Bertoni will give them a copy of what the Commission is asking them to do.

### **7. Commissioner Re-Appointments**

Steve Jaworski has been re-appointed to the Commission. Steve Demeter would like to be re-appointed to the Commission. He does not know the status of his reappointment. He spoke with Debi Morong in the Selectman's Office and left a message with Selectman Tom Kehoe (no response). He was deemed ineligible 3 years ago, but the Commission wrote a letter of support to keep him. Mr. Lumsden would like the Commission to write another letter of support for Mr. Demeter. Ms. Bertoni offers the process will run its course. Ms. Bertoni states there are two potential candidates, Henry Oettinger and Colby West.

### **8. 2 Putnam Court**

This property is on riverfront. The project the homeowners would like to do is a 2 stone stairway for safer access to yard, put in a 5' diameter BBQ pit in yard with a 3' perimeter around the pit. The homeowners are wondering if this can be done through a letter permit. The Commission and Ms. Bertoni feel it should be a Request for Determination of Applicability.

### **9. Open Space Committee Update**

Mr. Jaworski is on the Open Space Committee and they are looking at Dexter's Pond. Mike McDonough would like to start phase 2 of the project which is repairs to the bridge. He has been asked to submit a permit for phase 2.

#### **10. Expired Order of Conditions**

Mr. Demeter had issued a challenge last meeting for Commissioners to think of ideas on how to get people to come in for Certificate of Compliance. He suggests a form letter to send to those with expired Order of Conditions. Mr. Russell suggests using a shared calendar and can make an appointment 3 years out to check the Order of Conditions. Ms. Bertoni says we can see if our software will set up a report.

#### **VI. Adjournment**

There being no further business, a motion was made by Mr. Demeter to adjourn the meeting at 9:10 pm. This motion was seconded by Mr. Russell and voted unanimously in favor.

Submitted by,

Eva Palmer