



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

January 3, 2023

Zoom Virtual Meeting ♦ 6:30 PM

MINUTES

I. Call to Order

Members Present: Steve Gang, Sari Oseasohn, Olga Hayes, Henry Oettinger, David Lumsden, Jeff Bodmer-Turner, and Conservation Agent, Chris Bertoni.

Members Absent:

Conservation Chairperson Mr. Gang opened the meeting at 6:31 p.m. under the Wetlands Protection Act and Town by-law. He announced that it was being recorded by the Commission. This was a virtual meeting.

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

III. Notices of Intent/Abbreviated Notices of Resource Area Delineation

2 Old Neck Road, The Old Neck Road Nominee Trust, Christopher Vento – proposed construction of a new patio with pergola and cooking area within the 100’ and 50’ No Build Zone Buffers to Bordering Vegetated Wetland

Continued from 8/30/22, 9/27/22, (10/25/22 no discussion), continued to 1/24/23 **DEP File #39-0881**

Mr. Gang informed the Commission that the applicant had requested a continuance to the next meeting pending a revised landscape plan.

Vote: To continue the matter to the 1/24/23 meeting.

Motion: Mr. Gang; Second: Mr. Bodmer-Turner

Actual Vote: 6-0 *Mr. Gang – Yes, Ms. Oseasohn – Yes, Dr. Hayes – Yes, Dr. Oettinger – Yes, Mr. Lumsden – Yes, Mr. Bodmer-Turner- Yes*

1 Crow Island, GMVN Crow LLC, Gail von Metzsch – demolition of select existing structures and construction of an enclosed pool with the 100’, 50’ No Build Zone (NBZ), and 30’ No Disturb Zone (NDZ) Buffers to Coastal Bank

Continued from 12/6/22

DEP File #39-0884

Peter Ogren of Hayes Engineering presented. William Rice, representative for the applicant, in attendance. A site visit occurred. Mr. Ogren pointed out that there were not many places that the pool would work on the site. The front yard, the only area not in the Buffer Zones, was not acceptable to the homeowner and the terrain was difficult in the other plausible area. Mr. Ogren felt that the only place the pool would be functional would place it in the NBZ and NDZ. The proposed project is a 75’ long pool. The area is currently completely disturbed Buffer Zone.

A new site plan dated 12/27/22 was submitted. Based on concerns raised by the Commissioners, Mr. Ogren made some changes. The first was a concern over storm water management. He felt that a glass enclosed structure would not change the runoff, but he did three test holes. There was up to 40” of unconsolidated material before he hit ledge. He proposed a roof drain down from gutters on both sides of the structure

discharge inside the foundation of crushed stone on ledge. There would be relief pipes out of that and weep holes at elevation 36 in case it got overtaxed. The Commissioners had requested a profile of the project. Mr. Ogren presented a profile. He explained that the foundation wall will be poured concrete, covered in masonry stone. The proposed deck is located on the right-hand side of the pool. Lastly, a large flat patio area is proposed on the ocean side of the pool. Originally proposed at 15' it has been downsized to 12' and cut down the thickness of the wall. This will be a reduced footprint and intrusion into the Buffer Zone.

Mr. Gang and other Commissioners requested the calculation of net impervious surface in the Buffer Zones. Dr. Hayes commented that as far as she could remember, the Commission had never approved this large a structure in the NBZ and did not think she could approve the proposed project. Mr. Gang and the other Commissioners requested a robust Alternative Analysis as well as a Mitigation Plan. Mr. Gang explained that the area is a permeable area, and this project would be a large increase in impervious. Ms. Oseasohn felt she could not support that current proposal and needed more analysis of the impacts to the Resource and Buffer Zones.

Mr. Ogren pointed out that there were terrain issues on the property that would make construction more difficult. All areas on the property have jurisdictional issues. A smaller pool was considered but it would not work for the applicant. He felt alternatives were looked at. He pointed out that the project was not big as compared to the amount of resource on the property and he did add a complex system of runoff control. He will confer with the homeowner regarding mitigation and other options for the pool.

Vote: To continue the matter to the 1/24/23 meeting.

Motion: Dr. Oettinger; Second: Ms. Oseasohn

Actual Vote: 6-0 *Mr. Gang – Yes, Ms. Oseasohn – Yes, Dr. Hayes – Yes, Dr. Oettinger – Yes, Mr. Lumsden – Yes, Mr. Bodmer-Turner- Yes*

IV. Reconvene Regular Meeting

V. Requests for Certificates of Compliance

33 Forster Road, Dominic Paratore – construction of a single-family home and appurtenances, including upgraded septic system, with the 50' No Build Zone (NBZ) and the 100' Buffer to Bordering Vegetated Wetland

New

DEP File #39-363

Mike DeRosa of DeRosa Environmental Consulting presented. The previous homeowners, Dominic and Jeanie Paratore, were in attendance. John Morin of the Morin Cameron Group did the As-Built Plan. The Order of Conditions (OOC) was issued in 1999. The house was built. Changes that were made were the construction of a patio in the outer 100' Buffer Zone, an overhang was added to the porch, the septic system tank was moved to save a large pine tree, a raised bed vegetable garden was built with fencing that went into the NBZ and there is a dry boulder wall was added which is completely vegetated. Changes resulted in 760 sf of impervious coverage. Mr. DeRosa further noted there is a condition in the OOC that the owners obtain Conservation Restriction (CR). A CR was never created. Mr. DeRosa thought if one were to be created, it would be in the NBZ/NDZ and he felt that the area was already adequately protected. A CR would not further protect it. He felt the area could be monumented more permanently. Boulders with signage was suggested.

Mr. Lumsden pointed out that there are bordering areas that are under CR. Ms. Bertoni added that the OOC under both the local bylaw and state Act, the CR was also listed as a perpetual condition (CR) agreed to by the owner. Mr. Gang explained that a CR is forever, but a by-law could be changed. Several Commissioners were uncomfortable with eliminating a perpetual condition from an OOC. Ms. Bertoni had reached out to Town Counsel regarding the CR but at the time of the hearing had not received a response.

Patrice Murphy of MECT explained that a CR is in perpetuity and would provide additional protection. She had no paperwork on this OOC but felt this condition should not be second guessed. She offered another alternative where the applicant could donate land to MECT and get a tax deduction and the management of the CR would be MECT responsibility. MECT would find a 3rd party to be the holder of the CR.

Mr. DeRosa requested a continuation to the next meeting to find out what Town Counsel's comments are. He would also talk with the Paratros and the new owners of the home and come up with a strategy. Mr. Gang wanted to acknowledge the access area for the trail.

Ms. Bertoni did a site visit. The site is stable. It made sense where the septic tanks are. The changes would have been approved if they came before the Commission beforehand.

Mrs. Paratore apologized to the Commission for "dropping the ball". We did not intend to break any rules.

Vote: To continue the matter to the 1/24/23 meeting.

Motion: Mr. Gang; Second: Dr. Oettinger

Actual Vote: 6-0 *Mr. Gang – Yes, Ms. Oseasohn – Yes, Dr. Hayes – Yes, Dr. Oettinger – Yes, Mr. Lumsden – Yes, Mr. Bodmer-Turner- Yes*

6 Knight Circle, Victor & Lise Kaufman – construction of small addition within Riverfront Area

Resource

New

DEP File #39-0671

Stephen Sawyer, Professional Engineer, presented. Homeowners were in attendance. The Order of Conditions was issued in 2012. The project was a small one-story addition in the back corner of the building. It required gutters and downspouts be installed and directed to one Cultec chamber. There was a small deck and stairs off the back. An additional chamber was installed. It will take an increased area of the roof that is being picked up and directed to the Cultec chambers. The homeowners wanted a second story on this addition. There would be no increase in footprint. The changes from the approved plan are that the deck is 53 sf larger, there are 2 Cultecs instead of 1, and additional roof area is directed to the gutters.

Ms. Bertoni did a site visit. The site is stable and was satisfied with how it came out.

Vote: To issue a Certificate of Compliance with no perpetual conditions.

Motion: Mr. Gang; Second: Dr. Oettinger

Actual Vote: 6-0 *Mr. Gang – Yes, Ms. Oseasohn – Yes, Dr. Hayes – Yes, Dr. Oettinger – Yes, Mr. Lumsden – Yes, Mr. Bodmer-Turner- Yes*

VI. New Business:

Ocean Street: There was damage along Ocean Street from the storm. The DPW had initiated mitigation and will get information to Ms. Bertoni for an Emergency Certification (after-the-fact). Waiting on their Storm Management Protocols for Ocean Street as well as a planting plan and work on the berm. There was also damage at Tuck's Point.

CZM Grant: Mr. Gang informed the Commissioners that the Town had received a \$175,000 grant from CZM to develop a Coastal Vulnerability Action Plan. The Select Board is coordinating a steering committee and has asked for a representative from the Conservation Commission. Dr. Oettinger volunteered.

VII. Minutes:

12/13/23: Commissioners discussed edits.

Vote: To accept the minutes as amended.

Motion: Mr. Gang; Second: Mr. Bodmer-Turner

Actual Vote: 6-0 *Mr. Gang – Yes, Ms. Oseasohn – Yes, Dr. Hayes – Yes, Dr. Oettinger – Yes, Mr. Lumsden – Yes, Mr. Bodmer-Turner- Yes*

VIII. Adjournment:

There being no further business, the meeting was adjourned at 7:44 p.m. The motion was presented by Ms. Oseasohn and seconded by Dr. Oettinger and approved 6-0. *Mr. Gang – Yes, Ms. Oseasohn – Yes, Dr. Hayes – Yes, Dr. Oettinger – Yes, Mr. Lumsden – Yes, Mr. Bodmer-Turner- Yes*

Submitted by,

Eva Palmer

IX. Meeting Documents:

- Certificate of Compliance – 6 Knight Circle submitted by Victor & Lise Kaufman
- Certificate of Compliance – 33 Forster Road submitted by Dominic Paratore
- Notice of Intent – 1 Crow Island submitted by GMVN Crow LLC, Gail von Metzsch