



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 9, 2023

Zoom Virtual Meeting ♦ 6:00 PM

MINUTES

I. Call to Order

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

Members Absent: None

Conservation Chairperson Mr. Gang opened the meeting at 6:01 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.

Presentation: Ian Carlin, MERSD Junior, presented his Eagle Scout Leadership Service Project. His project is to build a kayak rack. He has been working with the Harbormaster. Potential locations are behind the Town Hall, next to the water. They will be anchored down and similar in construction to the other kayak racks. The Commissioners approved the project. He will present the project to the Select Board.

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

III. Requests for Determination of Applicability

23 Loading Place Road, William Williams & Elizabeth Akerley – proposed construction of an addition to an existing structure within Riverfront Area Resource and within the 100' Buffer to Bordering Vegetated Wetlands (BVW)

Continued from 4/18/23

2023-0005

Mike DeRosa of DeRosa Environmental Consulting, Inc. presented. A site visit occurred. There is 440 sf of proposed construction in the buffer and in Riverfront. 260 sf of that construction is in the 50-100' Buffer to BVW. He proposed a Mitigation Plan. There will be a conversion of lawn to natural planting totaling 900 sf. Erosion controls will be installed. Ms. Oseasohn suggested monumentation. Mr. DeRosa felt that two monuments would cover the mitigation area.

Vote: To issue a Negative 2 Determination of Applicability with 6 conditions.

Motion: Dr. Oettinger

Second: Dr. Hayes

Actual Vote: 6-0

Steve Gang – Yes, Sari Oseasohn – Yes, Olga Hayes – Yes, Jeff Bodmer-Turner – Yes, Henry Oettinger – Yes, David Lumsden - Yes

Summer Street/Route 127 State Highway (near Town-owned Brickyard Pond Parcel, and near railroad bridge), MassDOT, Highway Division – repave Summer Street from #160 to a point approximately 590 feet east across the railroad bridge, and widen the sidewalks on the north & south sides to a five-foot standardized width both east and west of the bridge including ADA-compatible curb ramps and new

crossing within Riverfront Area Resource, Bordering Land Subject to Flooding and within the 100' Buffer to Bordering Vegetated Wetlands

New

2023-0006

Ms. Bertoni read the legal notice into the record. Alyssa Jacobs of Epsilon Associates, Inc. presented. Courtney Walker of MassDOT and Stephen Simoglou, Project Manager for MassDOT were in attendance. The plan is to improve sidewalk conditions, have safer crossing at crosswalks, and have improved ADA accessibility on a section of Summer Street/Rte. 127. The road will be milled and repaved. All work is within State highway limits. There will be a minor increase in impervious surface. There will be an update to the crosswalk with a flashing beacon added at the crosswalk. A sidewalk will be added under the bridge by narrowing the road. Sidewalks will be widened (this is where the additional impervious will be). There will be improvements to catch basins.

Ms. Bertoni read two letters (emails) of support from Manchester residents Dana Vermeille and Joseph Degan. Terry Cowman of 2B Surf Village is part of a bike group in town trying to reduce the speed limit in that area and had his questions answered. The crosswalk will be moved 100' to the east. The flashing beacon at the crosswalk will be pedestrian activated and there will be static signage letting people know that there is a crosswalk ahead. Mr. Simoglou may talk to the contractor about changing the direction of the grate to protect bikers. And they may scale back on the milling and overlay so it doesn't go over the Causeway Brook.

Vote: To issue a Negative 2 and Negative 3 Determination of Applicability with 6 conditions.

Motion: Dr. Hayes

Second: Ms. Oseasohn

Actual Vote: 6-0

Steve Gang – Yes, Sari Oseasohn – Yes, Olga Hayes – Yes, Jeff Bodmer-Turner – Yes, Henry Oettinger – Yes, David Lumsden - Yes

52-54 Masconomo Street, Richard Axel Magnuson – to construct a granite landscaping wall within the 100' Buffer to Coastal Bank

New

2023-0007

Ms. Bertoni read the legal notice into the record. Axel Magnuson, homeowner, presented. A deck was constructed to service an apartment at 54 Masconomo Street. To do this they needed to dig into the existing embankment. The landscape architect recommended that they build a 26' long wall along the embankment bordering the proposed pea stone terrace. The wall will be dry laid with large granite blocks. It will be 2' tall. The wall will prevent further erosion of the bank and will not affect any drainage from the upland part of the lot.

Vote: To issue a Negative 3 Determination of Applicability with 4 conditions.

Motion: Dr. Oettinger

Second: Dr. Bodmer-Turner

Actual Vote: 6-0

Steve Gang – Yes, Sari Oseasohn – Yes, Olga Hayes – Yes, Jeff Bodmer-Turner – Yes, Henry Oettinger – Yes, David Lumsden - Yes

IV. Notices of Intent

19 Smith's Point Road, Meredith and John Pasquesi – proposed raze and rebuild a cottage and raze an existing single-family home and accessory building within the 100', 50' No Build Zone, and 30' No Disturb Zone Buffers to Coastal Bank

Continued from 4/8/23

DEP File #39-0892

Mike DeRosa of DeRosa Environmental Consulting, Inc. presented. Jeff Lawler, contractor, Vivien Schurer from the Architectural Firm, Kris Horiuchi of Horiuchi Solien, inc. and Jay Polakiewicz of Hancock Associates were in attendance. A site visit occurred. Three buildings will be removed. They would like to do all the demolition at one time for efficiency. Construction of the other buildings will be a different Notice of Intent.

DeRosa noted there will be no new disturbances and they are working within the existing footprint for the cottage. There will be no adverse effect to the Coastal Bank.

Dr. Bodmer-Turner pointed out that the foundation of the cottage was going to be removed completely and repoured as concrete and faced with slices of granite. This constitutes new construction under the Massachusetts Building Code and also under the Wetland Bylaw. The cottage is in the 30' No Disturb Zone (NDZ). There is a foundation outside the 50' Buffer and he wondered what could be done to move the structure away from the Bank.

Mr. Lumsden agreed. He felt there needed to be a good reason to build a new structure in the NDZ.

Mr. DeRosa pointed out that there would be no hammering or blasting. It is in the same footprint. He did not think there would be any adverse effects.

Mr. Gang reminded the Commission that recently construction was approved on the bank of Sawmill Brook, but the foundation was built so flood waters could flow through. It was also in the same footprint. Mr. Gang, Ms. Oseasohn, and Dr. Hayes were all comfortable with the project as long as there was no adverse impact.

Ms. Oseasohn suggested the Commission get clarification from Town Counsel and DEP before deciding.

Vote: To continue the matter to the 5/30/23 meeting.

Motion: Dr. Oettinger

Second: Mr. Gang

Actual Vote: 6-0

Steve Gang – Yes, Sari Oseasohn – Yes, Olga Hayes – Yes, Jeff Bodmer-Turner – Yes, Henry Oettinger – Yes, David Lumsden - Yes

17 Eaglehead Road, James and Grace Hoffman – proposed demolition and reconstruction of an existing single-family home within Coastal Bank; and within the 100', 50' No Build Zone and 30' No Disturb Zone Buffers to Coastal Bank and to Bordering Vegetated Wetland (BVW)

Continued from 4/18/23

DEP File #39-0891

Devon Morse of Hancock Associates, Jay Polakiewicz of Hancock Associates and the homeowners were in attendance. A site walk occurred. Revised plans dated 5/4/23 were submitted. Mr. Polakiewicz presented. They switched most of the patio and walkways to pervious by increasing the gaps in the pavers and filling with pea stone. There will be a decrease in impervious of 269 sf. There will be a 5 sf increase in impervious within the 50' Buffer. There will be 0 sf in the 30' and 50' BVW. The Commissioners were happy to see the changes.

Vote: To close the hearing.

Motion: Mr. Gang

Second: Dr. Hayes

Actual Vote: 6-0

Steve Gang – Yes, Sari Oseasohn – Yes, Olga Hayes – Yes, Jeff Bodmer-Turner – Yes, Henry Oettinger – Yes, David Lumsden – Yes

31 Smith's Point Road, William and Ellen Cross – to raze and rebuild a cottage including associated utilities relocation and an upgrade of the existing septic system per Board of Health Standards within the 100', 50' No /Build Zone and 30' No Disturb Zone Buffers to Coastal Bank

New

DEP File #39-0893

Ms. Bertoni read the legal notice into the record. Elizabeth Wallis of Hayes Engineering, Inc. presented. D.J. Arthur of ART Architects and the homeowners were present. The proposed plan is to demolish the 440-sf existing cottage and construct a new 449 sf cottage nearby. The septic will be upgraded. A portion of the project is in the Buffer.

The Commissioners requested a site visit, and one was scheduled for Saturday 5/13/23 at 9:00 a.m.

Vote: To continue the matter to the 5/30/23 meeting.

Motion: Mr. Gang

Second: Dr. Oettinger

Actual Vote: 6-0

Steve Gang – Yes, Sari Oseasohn – Yes, Olga Hayes – Yes, Jeff Bodmer-Turner – Yes, Henry Oettinger – Yes, David Lumsden – Yes

V. Reconvene Regular Meeting

VI. Requests for Extensions

**Central & Elm Streets, Greg Federspiel, Town Manager – Central Pond Restoration Limited Project
New DEP File #39-0824**

Nate Derosiers, DPW Engineer and Rick Canavan of Tighe & Bond presented. There are permits pending and the project has not gone out to bid yet. Construction is anticipated for the fall of 2024.

Vote: To issue a 1-year extension under the WPA and local bylaw.

Motion: Mr. Gang

Second: Dr. Hayes

Actual Vote: 6-0

Steve Gang – Yes, Sari Oseasohn – Yes, Olga Hayes – Yes, Jeff Bodmer-Turner – Yes, Henry Oettinger – Yes, David Lumsden - Yes

**201 Pine Street – Compost Facility, Charles Dam, Director of Manchester DPW – construct regional compost facility within the 100', 50' No Build Zone, and 30' No Disturb Zone Buffers to Bordering Vegetated Wetland at the existing Town transfer station
New DEP File #39-0827**

Andrew Brousseau of Black Earth presented. The facility is under construction. He estimates the project will be finished around November. The Commission received information as to what has been completed and what is still in process.

Vote: To issue a 1-year extension under the WPA and local bylaw.

Motion: Dr. Hayes

Second: Dr. Oettinger

Actual Vote: 6-0

Steve Gang – Yes, Sari Oseasohn – Yes, Olga Hayes – Yes, Jeff Bodmer-Turner – Yes, Henry Oettinger – Yes, David Lumsden - Yes

VII. Requests for Certificates of Compliance

**33 Forster Road, Dominic Paratore – construction of a single-family home and appurtenances, including upgraded septic system, within the 50' No Build Zone and the 100' Buffer to Bordering Vegetated Wetland
Continued from 1/3/23, 1/24/23, continued from 3/28/23, continued to 5/9/23 DEP File #39-363**

The applicant requested that this request be continued to the next meeting.

Vote: To continue the matter to the 5/30/23 meeting.

Motion: Mr. Gang

Second: Dr. Hayes

Actual Vote: 6-0

Steve Gang – Yes, Sari Oseasohn – Yes, Olga Hayes – Yes, Jeff Bodmer-Turner – Yes, Henry Oettinger – Yes, David Lumsden - Yes

VIII. New/Other Business:

Water Resource Task Force: Mr. Gang and the Task Force will meet with the Select Board and offer recommendations for new water rates.

Dexter's Pond Projects: CPC member Jack Burke had informed the Commission that there was a small but useful amount of money available for Dexter Pond trail restoration and projects. There being no immediate need for the money, Ms. Oseasohn will let the CPC know they can take the money back and the Commission will ask for some when ready for implementation work.

Sawmill / Causeway Brook Project: The CPC has been asking Ms. Oseasohn for an update. Ms. Bertoni informed the Commissioners that they would be getting information soon.

Proposed Changes to RDAs: Mr. Gang had spoken to Ms. Oseasohn and felt there were parts of the RDA process that were vague, and he wanted to clear them up for applicants. He wanted to take it out of the website and proposed that the Commission create new guidelines regarding scope and potential impact. And he wanted the Commission to think more creatively regarding conditions. He will have suggestions at the next meeting or the one after.

Ms. Bertoni felt there needed to be more discussion.

Mr. Lumsden suggested getting Town Counsel's opinion.

Mr. Gang and Ms. Bertoni would take the conversation offline.

Ch. 91 License Application: Ms. Bertoni pointed out that the Notice of Public Comment Period had been advertised in the Cricket for Manchester Yacht Club at 17 Ashland Avenue as well as two others.

Governance Project Meeting: Mr. Gang is the representative of the Conservation Commission for this project. The Select Board hired Susan Beckman to help streamline Town governance. She will review the goals and effectiveness of the Boards and look at how to improve coordination and avoid duplication. The next meeting is at the end of June.

Letter Permits:

55 Old Essex Road: planting trees between neighbors.

Proctor Street Project: 64 trees have been removed. The 65 new trees have not been installed yet per Mr. Gang.

Enforcement Order/Potential Violation:

10 Forster Road: Ms. Bertoni informed the Commissioners that the homeowner was unable to attend the meeting and will come to the 5/30/23 meeting. There was a tree that was to remain but due to roots undermining the new septic installation it was removed. The owners are willing to provide mitigation for the lost tree.

21 Proctor Street: Mike DeRosa of DeRosa Environmental Consulting, Inc. had reached out to Ms. Bertoni and submitted an update. On 4/24/23 there was an explanation of the unpermitted stone on the wharf. It is called annual maintenance of the pier by the homeowners. Mr. DeRosa had not been on site. This work needs to come before the Commission and needs a larger explanation. The homeowners also need to let the Commission know if they have a Ch. 91 license and if they don't have one, may want to apply for a license. Dr. Oettinger suggested the Commission issue a fine and give them 30 days to remove the stone and repeat as necessary.

Ms. Oseasohn suggested that the Commission request they submit their Ch. 91 License that allows maintenance.

Mr. Gang informed the Commission that the homeowners need to come before the Board before they get a Ch. 91 license.

Ms. Bertoni pointed out that there is currently not a mechanism to issue a fine. She can issue an amended Enforcement Order (EO). There is a current EO she could amend to include conditions regarding the pier such as coming before the Commission and having a Ch. 91 license.

Ms. Oseasohn agreed and offered to work with Ms. Bertoni regarding the wording of an amended EO.

Mr. Gang felt that the best success came from working through Mr. DeRosa. He suggested Ms. Bertoni reach out to him regarding the Ch. 91 license.

Task Force to Determine Zoning for the MBTA: No members of the Commission were available to be representatives on this task force. Mr. Gang felt the Commission could handle any issue when it came before them.

IX. Orders of Conditions:

17 Eaglehead Road: Commissioners discussed conditions. Mr. Lumsden would like the Commission to take a stronger stand on the State regulations. Dr. Bodmer-Turner had concerns about the garage and pergola.

Vote: To issue an Order of Conditions with standard, general and perpetual conditions and 7 special conditions, 1 of which is perpetual.

Motion: Mr. Gang

Second: Dr. Oettinger

Actual Vote: 6-0

Steve Gang – Yes, Sari Oseasohn – Yes, Olga Hayes – Yes, Jeff Bodmer-Turner – Yes, Henry Oettinger – Yes, David Lumsden - Yes

X. Minutes:

2/14/23: The Commissioners discussed edits.

Vote: to accept the minutes as amended.

Motion: Mr. Gang

Second: Dr. Hayes

Actual Vote: 6-0

Steve Gang – Yes, Sari Oseasohn – Yes, Olga Hayes – Yes, Jeff Bodmer-Turner – Yes, Henry Oettinger – Yes, David Lumsden – Yes

3/7/23: The Commissioners discussed edits.

Vote: to accept the minutes as amended.

Motion: Mr. Gang

Second: Dr. Hayes

Actual Vote: 6-0

Steve Gang – Yes, Sari Oseasohn – Yes, Olga Hayes – Yes, Jeff Bodmer-Turner – Yes, Henry Oettinger – Yes, David Lumsden - Yes

3/28/23: The Commissioners discussed edits.

Vote: to accept the minutes as amended.

Motion: Mr. Gang

Second: Dr. Oettinger

Actual Vote: 5-0 1 abstained

Steve Gang – Yes, Sari Oseasohn – Yes, Olga Hayes – Yes, Jeff Bodmer-Turner – Abstained, Henry Oettinger – Yes, David Lumsden - Yes

4/11/23: The Commissioners discussed edits.

Vote: to accept the minutes as amended.

Motion: Mr. Gang

Second: Dr. Hayes

Actual Vote: 5-0 1 abstained

Steve Gang – Yes, Sari Oseasohn – Yes, Olga Hayes – Yes, Jeff Bodmer-Turner – Abstained, Henry Oettinger – Yes, David Lumsden - Yes

XI. Adjournment:

There being no further business, the meeting was adjourned at 8:12 p.m. The motion was presented by Dr. Hayes, seconded by Ms. Oseasohn and the host heard no objections.

Submitted by,

Eva Palmer

XII. Meeting Documents:

- Eagle Scout Project
- Request for Determination of Applicability for 23 Loading Place Road submitted by William Williams and Elizabeth Akerley.
- Request for Determination of Applicability for summer Street/Route 127 State Highway submitted by MassDOT, Highway Division
- Request for Determination of Applicability for 52-54 Masconomo Street submitted by Richard Axel Magnuson
- Notice of Intent for 31 Smith's Point Road submitted by William and Ellen Cross.
- Extension Request for Compost Facility submitted by Charles Dam, DPW Director.
- Extension Request for Central Pond Restoration submitted by Greg Federspiel, Town Manager.