



# 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 September 19, 2023 Zoom Virtual Meeting ♦ 6:00 PM

### MINUTES

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#### I. Call to Order

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

**Members Absent:** None

Conservation Chairperson Mr. Gang opened the meeting at 6:00 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. Requests for Determination of Applicability

**116 Summer Street, Chris Oliver – removal of two trees within Riverfront Area Resource (Causeway Brook) and within the 50' No Build Zone Buffer to Inland Bank**  
New **2023-0018**

Ms. Bertoni read the legal notice into the record. Chris Oliver, property owner, presented. There are two pine trees that border the property line with a neighbor that he would like to remove. One has started to fall over, and one is leaning towards Xfinity lines. He spoke with several arborists who felt it was just a matter of time before the second tree fell over. A certified arborist will remove the trees. There will be no heavy equipment on the property, it will be on the driveway. The arborist will climb the trees, cut pieces and those pieces will be hauled away.

**Vote:** To issue a Negative 2 and Negative 3 Determination of Applicability with 5 conditions.

Motion: Dr. Hayes

Second: Dr. Oettinger

Actual Vote: 7-0

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

#### IV. Notices of Intent/Abbreviated Notices of Resource Area Delineation

**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**

Continued from 5/9/23, 5/30/23 (no discussion), 6/20/23 (no discussion, continued to 8/1/23), continued to 8/22/23, 9/19/23 (no discussion, continued to 10/10/23) **DEP File #39-0893**

The homeowner had requested a continuance to the 10/10/23 meeting.

**Vote:** To continue the matter to the 10/10/23 meeting.

Motion: Mr. Gang

Second: Dr. Bodmer-Turner

Actual Vote: 7-0

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

**4 Butler Avenue, Joseph and Elyse Campanelli – demolition/reconstruction of a single-family home, construction of a garage addition with extended driveway, and a deck within Land Subject to Coastal Storm Flowage and within the 100' Buffer to Bordering Vegetated Wetland**

New

**DEP File #39-0897**

Ms. Bertoni read the legal notice into the record. Joseph Campanelli, homeowner, presented. Bill Manuel of Wetlands and Land Management is the consultant and was unable to attend the meeting. The plan is to tear down the house and construct a new structure in the existing foundation. The structure will be outside the 50' No Build Zone. There will be no increase in impervious area.

The Commissioners requested a site visit, and one was scheduled for Monday 9/25/23 at 4:00 p.m.

**Vote:** To continue the matter to the 10/10/23 meeting.

Motion: Mr. Gang

Second: Dr. Hayes

Actual Vote: 7-0

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

**44 Brook Street, Mark and Elizabeth Donohoe – construct an addition to a single-family home with associated driveway improvements within the 100' Buffer to Bordering Vegetated Wetland**

New

**DEP File #39-0896**

Ms. Bertoni read the legal notice into the record. Bill Manuel of Wetlands and Land Management is the consultant and was unable to attend the meeting. The Commissioners requested a site visit, and one was scheduled for Monday 9/25/23 at 4:30 p.m. Dr. Oettinger pointed out that the site plan map said Brooks Street instead of Brook Street. Ms. Bertoni will pass along the correction to the consultant.

**Vote:** To continue the matter to the 10/10/23 meeting.

Motion: Mr. Gang

Second: Dr. Oettinger

Actual Vote: 7-0

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

**V. Reconvene Regular Meeting**

**VI. 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, 5/30/23, 6/20/23, continued to 8/1/23, 8/22/23, 9/19/23

**DEP File #39-363**

A partial Certificate of Compliance was voted on at the last meeting. The Conservation Restriction (CR) is under review. Mr. Gang and Ms. Oseasohn had made comments on the CR and Ms. Bertoni forwarded them to the attorneys for the Paratores. Patrice Murphy of MECT preferred a more detailed “metes & bounds” style

plan. The Commissioners felt that it was a very small area, and the "Sketch" plan was sufficient. Evin Guvendiren of DeRosa Environmental Consulting requested a continuance to the next meeting. The attorney for the homeowners, Mark Glovsky, was out of town but wanted to be present at the meeting for any discussion.

**Vote:** To continue the matter to the 10/10/23 meeting.

Motion: Dr. Bodmer-Turner

Second: Dr. Oettinger

Actual Vote: 7-0

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

**14 Highland Avenue, Builders by the Sea – construction of a single-family dwelling within the 100' Buffer to Bordering Vegetated Wetland**

6/20/23, continued to 8/1/23 (no discussion), 8/22/23, 9/19/23 (no discussion, continued to 10/10/23)

**DEP File #39-0860**

Ms. Bertoni, Dr. Bodmer-Turner, the homeowner and Bill Manuell of Wetlands and Land Management did a site visit. Additional plantings are installed. Additional work will be done to mitigate the erosion issue along Highland Avenue. Mr. Manuell agreed at the site visit that more work needed to be done and asked for more time to complete the work. The homeowner was very cooperative to get the work done. Ms. Bertoni noted a secondary area in front of the garage which could turn into an erosion problem. Mr. Manuel and the homeowner are aware of this issue.

**Vote:** To continue the matter to the next meeting on 10/10/23.

Motion: Mr. Gang

Second: Dr. Hayes

Actual Vote: 7-0

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

**72 Harbor Street, Christopher Collins – stone retaining walls and terraces with related site work and landscaping within the 100' Buffer to Coastal Bank**

New

**DEP File #39-0341**

Ms. Bertoni informed the Commission that the DEP NOI-Lookup website shows this as an active file number. An Order of Conditions was never issued – work was never done under this file number. There is another DEP file number for this project. There is a letter from Lolly Gibson, landscape architect, confirming no work was ever done under this file number so it can be withdrawn. After a vote to withdraw Ms. Bertoni will inform the DEP that this file number has been withdrawn.

**Vote:** To issue a withdrawal of the DEP File #39-031.

Motion: Dr. Bodmer-Turner

Second: Dr. Hayes

Actual Vote: 7-0

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

**VII. New/Other Business:**

**Beaver Activity/Ponding in Western Woods:** During the cleanup of the Western Woods in the summer an abutter on the Beverly side raised the issue of the pond backing up to his property possibly due to beaver activity at the outflow of the pond. Mr. Gang and Dr. Bodmer-Turner reviewed the site. They looked at the site of the outflow. The abutter had annually dismantled the dam. It's not so much a dam but a blockage of the

outflow. He put in two PVC pipes to keep the flow going but it was not very effective. This is all unpermitted work. He would like the Commission to put in a permanent solution that causes the water to stay at a certain level. There are jurisdictional issues as well as potential impacts to owners downstream. There are cement structures where the outlet is located to help reduce erosion on either side.

Ms. Bertoni will reach out to Beaver Solutions to see if there is any relief they could offer if there is any beaver activity causing this backup. Mr. Gang informed the Commission that it is called the Onion River and there is some evidence of beaver activity downstream. Ms. Bertoni was willing to bring up the issue with the Beverly Conservation Commission. There needs to be more information to determine a solution.

**Open Space and Recreation Committee (OSRC):** Mr. Gang, a member of the OSRC, informed the Commission that there was a proposal to convene a meeting with Gordon College regarding a Conservation Restriction on some of the 100+ acres they own in Manchester. This area is in the Gravelly Pond watershed. The OSRC has invited the Conservation Commission to also approve this action.

**North Shore Regional Compost Facility:** Ms. Bertoni informed the Commission that the State accepted the change represented by the two plans which noted the new retaining wall and the extended gravel area.

**MECT:** Ms. Bertoni issued a letter permit to MECT to install a temporary celebratory banner in the parking lot and two small signs at the boardwalk at Cedar Swamp and Cathedral Pines.

**Manchester Housing Land Swap:** Mr. Gang informed the Commission the OSRC are in discussions with the Manchester Housing Authority for a land swap at Newport Park. The MHA is moving forward with a plan to expand housing at Newport Park with new buildings. According to the initial sketch the location for any buildings would be in the northeast corner of the property which is in marsh and a perennial stream. The suggestion is to swap this wetland area with a Town owned parcel to the south. More discussion is needed as well as direction from Town Counsel regarding the process. MHA knows they cannot build in a wetland and are looking for other opportunities. There will be a MHA and Affordable Housing meeting on Thursday 9/21/23 where this will be brought up.

**15 Smith's Point Road:** Ms. Bertoni reminded the Commission that the project was denied under the local bylaw and was appealed by the owner. Ms. Bertoni is working on an administrative record request.

**10 Old Wenham Way:** Ms. Bertoni reminded the Commission that the applicant at 10 Old Wenham Way has appealed the decision. Town Counsel would like the Commission to enter into an Executive Session at the 10/10/23 meeting to discuss the status of the appeal and next steps.

**Bertram Database:** Ms. Bertoni informed the Commission that she received a quote from Paula Bertrum to update the database with updated forms. The quote was \$870.

**Conservation Agent search:** Mr. Gang and Ms. Oseasohn will participate in a second interview with the top candidate for the position. The job will be shared with the Town of Hamilton.

**21 Proctor Street:** Evin Guvendiren of DeRosa Environmental Consulting presented. The homeowner had received the 5<sup>th</sup> amended Enforcement Order. Three conservation markers have been installed. The fine was paid by 9/12/23. A written statement detailing why they did the unpermitted work was submitted and a Ch. 91 license has been requested from Waterways.

Ms. Bertoni, the Harbormaster, Chrissy from Ch. 91 and Mike DeRosa of DeRosa Environmental Consulting had a Zoom meeting to discuss background and how to move forward for permitting. The wharf being built before 1984 is exempt from Ch. 91 but the increased height on the wharf is a minor modification and the homeowner will file for that. The ramp and float are not yet permitted. The Harbormaster will issue them a 10A permit, renewed annually. If the homeowners do this, they will not need a Ch. 91 license, but the change in the wharf height will need to have a Cha 91 minor modification. The homeowners will file an after-the-fact Notice of Intent (NOI) for the ramp and float and minor repairs to the wharf, including the existing wharf height. Ms.

Guvendiren will have a site visit to gather information on the float and will meet the 10/16/23 deadline to be heard at the 10/30/23 meeting.

Ms. Bertoni informed the Commission that the float needs to be approved by the Commission and follow the standards of small docks and piers. It must have feet or skids. It is not currently in compliance with the Wetlands Protection Act. Ms. Bertoni will share images of before and after repairs to the wharf.

**Vote:** To amend the 5<sup>th</sup> amended Enforcement Order a sixth time to acknowledge the installation of three monuments, explanation of the unpermitted work provided, the application to Mass Waterways and the Harbormaster have been submitted and the fine paid. The Enforcement Order will stay in place until the NOI is submitted by the 10/16/23 filing deadline.

Motion: Mr. Gang

Second: Dr. Hayes

Actual Vote: 7-0

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

**New Water Rates Recommendation:** The recommended water rates determined by the Water Resource Task Force were before the Select Board again and they did not vote on it. They indicated that the next step is for the Town Administrator to take over the process of implementing the recommendation of the Water Resource Task Force. Ms. Bertoni felt that a consultant would be needed to handle this. Mr. Gang was disappointed in the outcome since he was under the impression there would be a favorable vote at the first meeting. He hopes that someone will take responsibility for these recommendations and not have all the work sit on a shelf. The Commissioners felt Mr. Gang and the Task Force had done an admirable job regarding the water resource recommendations. Dr. Bodmer-Turner felt there were members of the Select Board whose responses were abusive. Mr. Gang waited for an apologetic note or call but had not received one by the time of this meeting.

**Chris Bertoni to retire:** Mr. Gang and the Commission gave a round of congratulations and best wishes to Administrator Chris Bertoni. Mr. Gang had been really impressed with how Ms. Bertoni absorbed information, kept her cool dealing with irate residents, and protected the Commissioners. The Commission thanked her profusely for all her hard work. Ms. Bertoni felt the Commissioners worked well together and did a great job and felt they were a pleasure to work with.

**VIII. Orders of Conditions:** None

**IX. Minutes:**

**8/22/23:** Commissioners discussed edits. Mr. Gang informed the Commission that he had drafted two documents regarding irrigation: 1- a statement of the circumstances under which the Conservation Commission would condition irrigation and 2 – a draft bylaw with new regulations, incentives, and best practices. He will send it to KP Law.

**Vote:** To approve the minutes as amended.

Motion: Mr. Gang

Second: Dr. Hayes

Actual Vote: 7-0

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

**X. Adjournment:**

There being no further business, the meeting was adjourned at 7:18 p.m. The motion was presented by Dr. Hayes, seconded by Dr. Oettinger, and approved by acclamation.

Submitted by,

Eva Palmer

**XI. Meeting Documents:**

- Request for Determination of Applicability for 116 Summer Street submitted by Chris Oliver.
- Notice of Intent for 31 Smith's Point Road submitted by William and Ellen Cross.
- Notice of Intent for 4 Butler Avenue submitted by Joseph & Elyse Campanelli.
- Notice of Intent for 44 Brook Street submitted by Mark and Elizabeth Donohoe.
- Request for Certificate of Completion for 33 Forster Road submitted by Dominic Paratore.
- Request for Certificate of Completion for 14 Highland Avenue submitted by Builders by the Sea.
- Request for Certificate of Completion for 72 Harbor Street submitted by Christopher Collins.