



# 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 Special Meeting February 9, 2021 Zoom Virtual Meeting ♦ 6:30 PM

### MINUTES

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#### I. Call to Order

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

**Members Absent:** None

Conservation Chairman Mr. Gang 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. This was a virtual meeting.

#### II. Minutes

**8/25/20:** The Commissioners discussed the draft minutes.

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

Motion: Ms. Hayes

Second: Ms. Oseasohn

Actual Vote: 7-0

**11/3/20:** The Commissioners discussed the draft minutes.

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

Motion: Mr. Gang

Second: Mr. Oettinger

Actual Vote: 7-0

**11/10/20:** The Commissioners discussed the draft minutes.

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

Motion: Mr. Gang

Second: Mr. Oettinger

Actual Vote: 7-0

**11/24/20:** The Commissioners discussed the draft minutes.

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

Motion: Mr. Gang

Second: Ms. Hayes

Actual Vote: 7-0

### **III. Request for Determination of Applicability**

#### **22 Harbor Street (map 22, lot 11), Stephen Brox – request to remove dead and dying trees within the 100' Buffer to an Intermittent Stream**

Continued from 1/19/21

**2020-0017**

Erik Stevenson of Brox Industries presented. A site walk occurred where a discussion about mitigation occurred. The applicant proposed to plant ten trees (five along stream, five on the property) and ten native shrubs along the stream. The cutting of the trees will occur in the next few weeks. The planting of the shrubs will most likely be in the spring but will check with the arborist. The Commissioners discussed conditions.

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

Motion: Mr. Lumsden

Second: Mr. Oettinger

Actual Vote: 7-0

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

Continued from 1/19/21

**2021-0001**

Colby West, homeowner, formally withdrew his Request for Determination of Applicability in favor of a Notice of Intent.

#### **5 Kings Way, Joshua & Lindsay Engdahl – request to construct a paved driveway within the 100' Buffer and 50' No build Zone Buffer to Bordering Vegetated Wetland**

New

**2021-0003**

Jay Jarosz of Jarosz Land Surveying presented. The plan is to pave a gravel driveway. This is an extension of the driveway from the cul-de-sac. The driveway will be 65' long and 9' wide with stone on the edge. Water runoff will go to either side of the driveway to a BMP. Mr. Gang would like the 50' Buffer shown on the plan. The area was pre-graded due to the sub-division. A silt sock will stay on the 100' Buffer. Commissioners are comfortable with the plan since the features were previously there. Ms. Bertoni felt the RDA was appropriate. Conditions were discussed.

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

Motion: Mr. Lumsden

Second: Ms. Oseasohn

Actual Vote: 7-0

### **IV. Recess for Public Hearings under Wetlands Protection Act and Local Wetlands By-Law**

### **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

**DEP File #39-0834**

Ms. Oseasohn explained the concept of an ANRAD and what the role of the Conservation Commission is. Dan Wells of Goddard Consultants presented. The applicant had received the peer review report by Mike DeRosa of DeRosa Environmental Consulting. There was a minor omission that will be updated by Mr. DeRosa and the applicant will respond formally in writing when that happens.

In the peer review document, Mr. DeRosa agreed with findings of the A-series wetland, B-series wetland, and Riverfront. The D-series wetland is missing from the summary. There is a ravine area in the southeastern part of the property that has a steep topography. Mr. Wells and Mr. DeRosa looked at it together. Mr. Wells does not think this is a wetland. Mr. Wells and Mr. DeRosa will revisit the area in April or May. Mr. Wells agreed that the A- and B series wetlands function as vernal pools. An additional study of this was suggested, and the applicant agreed to that. The vernal pool evaluation will occur between March and April. Mr. Wells does not agree that the part of the report that deals with the function and value of the upland area should be part of the ANRAD. He does not think this is relevant. Mr. Wells will do an egg mass count and vernal pool survey following the guidelines for vernal pool certification from the Division of Fisheries. He will survey the A- and B-series wetlands and adjacent areas and have Mr. DeRosa review and verify those notes. Regarding the Vernal Pool Habitation Document, he will investigate the vernal pools but anything beyond the edge of the resource boundary has no relevance. He felt the uplands were beyond the scope of the ANRAD. Mr. Wells will do the vernal pool survey then update the current plan.

Mr. Judge and other Commissioners felt the uplands are incredibly pertinent in relation to drainage density and erosion rates. Mr. Judge is concerned with drainage impacts. He requested further review that will delve deeper into the uplands. Many Commissioners were pleased that a vernal pool survey would be done. Mr. Oettinger requested that it be done by an outside consultant with experience certifying vernal pools. Mr. Gang suggested a wildlife study to see what animals use the vernal pools. The appropriate time to do that study is in the spring. Mr. Wells responded that if there is a vernal pool he would not dispute that adjacent uplands provide essential habitat functions. Mr. Wells and Ms. Bertoni pointed out that some of the Commissioner's requests were outside the scope of an ANRAD.

Ms. Oseasohn asked for comments by the public. Elizabeth Pyle, attorney of Hill Law representing the Manchester Essex Conservation Trust (MECT) had submitted a letter (earlier in the day) with recommendations for the ANRAD process. There are two areas of offsite Bordering Vegetated Wetlands (BVW), 100' of buffer which likely extends on the property. There is also an intermittent stream (A-series BVW), she would like this stream delineated and included in the protected resource areas. She would like these included for the Commission's consideration. Patrick Garner, wetland scientist who works with the MECT, had walked the perimeter and adjacent area and would like the BVW located and affirmed that the intermittent stream is in the A-series and should be taken a closer look at. Ms. Bertoni requested a report on this to share with the Commissioners.

**Vote:** To continue the matter to the 3/2/21 meeting.

Motion: Ms. Oseasohn

Second: Ms. Hayes

Actual Vote: 7-0

## **VI. Notice of Intent**

### **25 Raymond Street, Mark McDonough – addition of a cobble berm seaward to an existing retaining wall structure within Coastal Beach, Coastal Bank, Land Subject to Coastal Storm Flowage and 30' No Build Zone Buffer To Coastal Bank**

Continued From 12/17/19. 1/21/20, 2/11/20 to 4/14/20, 5/26/20, 6/16/20, 7/14/20, 8/4/20, 8/25/20, 9/22/20, 10/13/20, 11/3/20 (no discussion), continued to 12/15/20, 1/19/21 **DEP File #39-0816**

Dr. Wendy Goldsmith presented. Mark McDonough, homeowner, in attendance. A site visit occurred. The sand had returned to the top of the retaining wall. The planned work will be at the toe of the retaining wall. She had provided the Commissioners with an outline with how each of the performance standards are being addressed. It is an experiment and should be monitored for a few years, and she would like to continue the Coastal Management Plan. Long term solutions may not be appropriate now. Regarding concerns about the stones on the top of the wall, Dr. Goldsmith pointed out that the use of the stones had not changed since the beginning. They will be put there to protect the area behind the wall. The stones will be 1' wide and up to 18" long. They will not be launched, may be pushed a little. The Bath & Tennis chose not to do an independent study (previously mentioned).

Several Commissioners thought the project was worthwhile. Mr. Oettinger was concerned that there was a lack of metrics for success of the project since this method is experimental in the North Shore area. Dr. Goldsmith would like to have a continuing dialog regarding Management Practices since coastal resilience measures are in the early stages. There will be photo monitoring.

**Vote:** To close the hearing.

Motion: Mr. Gang

Second: Ms. Hayes

Actual Vote: 6-0-1 abstained

**17 Tuck's Point Road, Greg Federspiel, Town of Manchester – renovations to public dockage at Tuck's Point within Land Under Ocean, Coastal Beach, and Land Containing Shellfish**

Continued from 12/15/20, 1/19/21

**DEP File #39-0835**

Mike Count of Foth and Bion Pike, Harbormaster, presented. A revised plan was submitted, and it eliminated 3 steel pipe piles, 3 floats, alleviated any obstruction of view from the rotunda, and it is the same square footage as the current dockage. These changes were proposed from the suggestions of the Conservation Commission from the last meeting. The plan has been approved by Army Corps. The Harbormaster received support from the Historical Committee. It is reducing impacts from the originally proposed dockage and the whole system was moved north.

Mr. Houghton, member of the public, felt the number of pilings and the height of them were still unsightly. However, those proposed piling had to stay to meet design parameters required with local and state processes.

Steve Lauber of 97 Pine Street pointed out that there have been significant changes of utilization of that area in the past five years. There have been an increase of boats and crowded floats are a public safety issue. Many boaters were excited about expanded dockage. He encouraged reintroduction of 25-50' of dock space.

**Vote:** To close the hearing.

Motion: Ms. Hayes

Second: Ms. Oseason

Actual Vote: 7-0

**1 Beaver Dam Road, Tim Brady – construction of a new facility, installation of a driveway and parking areas, and conversion of an existing gravel area to natural vegetation within 100', 50' No build Zone, 30' No Disturb Zone Buffers to Bordering Vegetative Wetland**

Continued from 1/19/21

**DEP File #39-0837**

The applicant requested a continuance to the 3/2/21 meeting.

**Vote:** To continue the matter to the 3/2/21 meeting.

Motion: Mr. Gang

Second: Mr. Oettinger

Actual Vote: 7-0

**Town of Manchester Coastal Waters, Kevin Salvadori, Edge Cable Holdings USA LLC – as part of a larger project, install an offshore fiber optic cable that will cross the Atlantic Ocean (Amitie Fiber Optic Submarine Cable System) in Land Under Ocean and Land Containing Shellfish**

New

**DEP File #39-0838**

Alexia O'Brien of ERM Engineering and Consulting, Inc. presented. Evan Ehrlich and Heather Heater of ERM were in attendance. This is part of a larger offshore transatlantic fiber optic cable project. All cable will be buried (near land). The project will have negligible effects. There will be two activities. First the vessel will clear a path. This will take less than one day in Manchester. Then the vessel will install the cable. A plow will be deployed off the vessel, install cable, and backfilled as the plow is pulled. It will cross two existing pipelines and

existing fiber optic cables. At those points the plow will be pulled up and put down afterward. Those areas will be handled with jetting rather than plowing. The cable will lay on top of the pipelines. There is no risk of the plow hitting the lines. The company is very conscious of this and have worked with the pipeline companies. There has been outreach to lobsterman and fisherman and the contractor will work closely with them.

**Vote:** To close the hearing.

Motion: Mr. Gang

Second: Ms. Hayes

Actual Vote: 7-0

**195 Summer Street, 195 Summer Street Realty Trust – for construction of a pool house, patio, and inground swimming pool within State & Local Buffers to Coastal Bank and Bordering Vegetated Wetlands**

New

**DEP File #39-0839**

David Cowell of Hancock Associates presented. John Pate, Landscape Architect in attendance. Mr. Cowell is requesting approval for an inground pool, pool house and appurtenances. This is a redevelopment of an existing degraded tennis court. This is existing impervious area. There is existing lawn near the Coastal Bank. There is no need to clear the vegetated land or grade. The plan will reduce approximately 2500 s.f. of impervious area. For mitigation, the plan proposes to relocate a granite block wall further away from Coastal Bank and add a landscaping plan to re-naturalize the area. The area is very confined due to a septic leach field and existing Olmstead gardens.

There will be a temporary trench for conduit tie in. This will be backfilled to existing conditions. There will be a clean up of invasive species. The lawn will be replaced with native plantings. An upgrade to the power transformer will be installed. Currently, there are no plans for blasting. The Commissioners suggested a site visit, and one was scheduled for Monday 2/15/21 at 12:00 p.m.

**Vote:** To continue the matter to the 3/2/21 meeting.

Motion: Mr. Gang

Second: Ms. Hayes

Actual Vote: 7-0

**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**

New

**DEP File #39-0XXX**

Colby West, homeowner, presented. A DEP File number was not issued at the time of this meeting. This project was previously submitted as a Request for Determination of Applicability (RDA) and was withdrawn. The same project is now presented as a Notice of Intent. The wetland boundaries had not been delineated by a wetland scientist. The applicant was informed that a professionally prepared, signed, wetland and buffers delineation should be on the site plan.

Mr. Lumsden asked about filling in the Salt Marsh area. Mr. West pointed out that there would be 129 yards of material, large tailings (4-6”), 1 ½ round stone (2-4”), a thin layer of ¾ crushed stone, filter fabric, and 4-6” of sand, loam, and grass. Mr. West was informed that this filling process needed to be included as additional information. There are 4 greenheart pilings proposed in the resource. The float and gangway are 320 s.f. in total. The float is made of a composite material called ThruFlow which lets 43% of light through. The float rests on the bottom at low tide. Ms. Bertoni informed Mr. West that there needs to be something to keep the float off the bottom. It would need a minimum of 18” clearance. Ms. Bertoni would also like to see information on the soil tests mentioned in the narrative, any proposed mitigation, and information that the project follows DEP guidelines for small docks and piers. A continuance is requested.

**Vote:** To continue the matter to the 3/2/21 meeting.

Motion: Mr. Gang

Second: Ms. Hayes  
Actual Vote: 7-0

**VII. Reconvene Regular Meeting**

**VIII. New/Other Business**

**Commissioner stepping down:** Joe Puopolo will be stepping down in June.

**Vote:** To formally recognize Joe Puopolo for his service to the Commission with gratitude.

Motion: Mr. Gang  
Second: Mr. Oettinger

**Expenditure:** An invoice from Beaver Solutions for \$1,256.25 was received. This was for work detailed in the annual maintenance agreement.

**Vote:** To pay Beaver Solutions \$1,256.25.

Motion: Mr. Gang  
Second: Mr. Puopolo  
Actual Vote: 7-0

**38 School Street:** Ms. Bertoni informed the Commissioners that the homeowner had stopped any work, however she was still having trouble getting ahold of him.

**Town land:** Mr. Gang informed the Commissioners that the Conservation Commission is responsible for Town land that abuts Shingle Hill and may have a voice in the protection of Cathedral Pines.

**IX. Orders of Conditions:**

**25 Raymond Street –** The Commission discussed conditions.

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

Motion: Mr. Gang  
Second: Ms. Hayes  
Actual Vote: 6-0 1 recused

**17 Tuck's Point Road –** The Commission discussed conditions.

**Vote:** To issue an Order of Conditions with standard and special conditions and off-season storage.

Motion: Mr. Gang  
Second: Ms. Oseasohn  
Actual Vote: 7-0

**Manchester by the Sea Coastal Waters –** The Commission discussed conditions.

**Vote:** To issue an Order of Conditions with standard and special conditions.

Motion: Mr. Gang  
Second: Ms. Hayes  
Actual Vote: 7-0

**X. Adjournment:**

There being no further business, the meeting was adjourned at 10:25 p.m. The motion was presented by Mr. Gang and seconded by Ms. Hayes and approved by unanimous consent.

Submitted by,

Eva Palmer

**XI. Meeting Documents:**

- Request for Determination of Applicability – 5 Kings Way to construct a paved driveway submitted by Joshua & Lindsay Engdahl.
- Request for Determination of Applicability - 22 Harbor Street to remove dead and dying trees submitted by Stephen Brox.
- Notice of Intent – 21 Proctor Street to install four greenheart piles for an existing gangway and float submitted by Thomas “Colby” & Laura West,
- Notice of Intent – 17 Tuck’s Point Road for renovations to public dockage at Tuck’s Point submitted by Greg Federspiel, Town of Manchester.
- Notice of Intent – 25 Raymond Street for the addition of a cobble berm submitted by Mark McDonough.
- Notice of Intent – Town of Manchester Coastal Waters to install an offshore fiber optic cable that will cross the Atlantic Ocean (Amitie Fiber Optic Submarine Cable System) submitted by Kevin Salvadori, Edge Cable Holding USA LLC.