



**Environmental Stewardship Department/  
Conservation Commission**

**City of New Bedford  
Jonathan F. Mitchell, Mayor**

**Meeting Minutes of the Conservation Meeting of  
October 6, 2016  
Room 314, City Hall**

**Members Present**

Craig Dixon, Vice Chairman  
Dennis Audette  
Paul Pacheco  
Jacob Gonsalves

**Members Absent**

John Radcliffe, Chairman

**Staff Present**

Agent Sarah Porter  
Sandy Douglas, Admin., Specialist

Vice Chairman Dixon called the meeting to order at 6:30 p.m.

**NEW BUSINESS:**

1. **SE49-0501 – Request for Certificate of Compliance as filed by Whalers Woods Realty Trust for property identified as 181 Tarkiln Place (Map 130G, Lot 214).** Representative is Richard Rheume of Prime Engineering. **CONTINUED TO 10/18/16.**
2. **SE49-0505 – Request for Certificate of Compliance as filed by Whalers Woods Realty Trust for property identified as 113 Tarkiln Place (Map 130G, Lot 220).** Representative is Richard Rheume of Prime Engineering. **CONTINUED TO 10/18/16.**
3. **SE49-0506 – Request for Certificate of Compliance as filed by Whalers Woods Realty Trust for property identified as 121 Tarkiln Place (Map 130G, Lot 219).** Representative is Richard Rheume of Prime Engineering. **CONTINUED TO 10/18/16.**
4. **SE49-0508 – Request for Certificate of Compliance as filed by Whalers Woods Realty Trust for property identified as 149 Tarkiln Place (Map 130G, Lot 217).** Representative is Richard Rheume of Prime Engineering. **CONTINUED TO 10/18/16.**
5. **SE49-0511 – Request for Certificate of Compliance as filed by Whalers Woods Realty Trust for property identified as 173 Tarkiln Place (Map 130G, Lot 264).** Representative is Richard Rheume of Prime Engineering. **CONTINUED TO 10/18/16.**
6. **SE49-0512 – Request for Certificate of Compliance as filed by Whalers Woods Realty Trust for property identified as 189 Tarkiln Place (Map 130G, Lots 203/213).** Representative is Richard Rheume of Prime Engineering. **CONTINUED TO 10/18/16.**

7. **SE49-0529 – Request for Certificate of Compliance as filed by Whalers Woods Realty Trust for property identified as 121 Mate Drive (Map 130G, Lots 202/212).** Representative is Richard Rheume of Prime Engineering. **CONTINUED TO 10/18/16.**
8. **SE49-0539 – Request for Certificate of Compliance as filed by Whalers Woods Realty Trust for property identified as (Map 130G, Lots 200/210).** Representative is Richard Rheume of Prime Engineering. **CONTINUED TO 10/18/16.**
9. **SE49-0534 – 21 Schooner Court. Owner requested to appear to address non compliance with the 25' Setback/Conservation Area.**

Agent Porter advised the Commission that when they visited the property it was noted that the split rail fence had been taken down and a Christmas tree was in the no disturb zone which is minor and there was a slate pathway that went into the no disturb zone.

Ms. Corinne M. Dinucci of 21 Schooner Court was present and inquired as to who placed the split rail fence there originally. Agent Porter explained to Ms. Dinucci that when a building permit was applied for the Conservation Commission had the builder put up the split rail fence to protect the wetlands from encroachment. Ms. Dinucci replied that she did not agree to a fence being put up in her backyard and that when she purchased the property she was told that she could walk in there, play in there but cannot build in there. Mr. Dixon explained that the fence is a boundary to let you know that you cannot do anything beyond that fence but that you could walk in the wetlands. Mr. Dixon advised Ms. Dinucci that she needs to put the fence back up. Ms. Dinucci replied that the fence is rotted and that's why she took it down and that she does not like the fence or the sign that's on the fence which someone recently placed there.

Ms. Dinucci inquired as to is responsible for maintaining the fence. Mr. Dixon replied that it is the homeowner's responsibility to maintain the fence as she agreed to when she purchased the property. Ms. Dinucci stated that she did not sign anything agreeing to have a fence placed on her property and she cannot afford to replace the fence and she doesn't like the fence there and since it's her property why does she need a fence there while she understands there is a boundary there. Ms. Dinucci requested documentation that states that it's mandatory to have a fence. The builder tried to get Ms. Dinucci to sign something recently and she refused to sign it. She is not trying to destroy the wetlands but the fence was not safe that's why she took it down.

Agent Porter explained that the Order of Conditions was attached to the Purchase & Sale Agreement with Special Condition #50, which states that upon completion of the construction the split rail fence, shall be installed along the hay bale/ silt fence line to establish a no disturbance boundary in perpetuity. A sign/placard shall be placed on the fence stating that "a protected Conservation Area exists beyond the fence and is to remain undisturbed per Order of the New Bedford Con Com.

Ms. Dinucci stated that she understands the Order but it doesn't state she is responsible for the maintenance. Mr. Dixon explained that it states "in perpetuity" and that would make it the homeowner's responsibility. Ms. Dinucci continued to disagree that she is responsible for the maintenance of said fence.

Agent Porter added that there was also Condition #51 in the order that states that at the time of the land transfer the proponent, Whalers Woods Realty Trust, or any successor, shall require the buyer to sign an acknowledgement that they have read and understand Condition #50 and a copy of said acknowledgement shall be forwarded to the Commission, this acknowledgement has not been received.

Mr. Dixon advised Mr. Dinucci that she needs to put the fence rails back as a delineation and take the Christmas tree out of the wetland. Agent Porter stated that if Ms. Dinucci does not want to place a fence she can use rocks instead. Ms. Dinucci replied that she rather do a rock wall then have a fence.

Ms. Dinucci understood that she has to remove the Christmas tree and she needs to place some sort of delineation boundary.

## **CONTINUED HEARINGS:**

1. **SE49-0735 – (Continued from 3/15/16, 4/5/16, 4/19/16, 5/3/16, 5/17/16, 6/7/16, 6/21/16, 7/5/16, 7/19/16, 8/16/16, 9/6/16, 9/20/16) - A Notice of Intent as filed by Anthony R. DeCosta d/b/a A-1 Asphalt for property located at 1861 Shawmut Avenue, New Bedford (Map 124, Lot 27).** Applicant proposes improvements to a soil and aggregate re-cycling facility in the Buffer Zone to Bordering Vegetated Wetlands. Representative is Rick Charon of Charon Associates, Inc. **CONTINUED**
2. **SE49-0739 – (Continued from 6/7/16, 6/21/16, 7/5/16, 7/19/16, 8/16/16, 9/6/16, 9/20/16) - A Notice of Intent as filed by Michele Paul, Director of Environmental Stewardship for the City of New Bedford for property identified as Ruggles Street and Hathaway Boulevard (Map 69, Lots 86, 88-93, 96-100, and 125).** The applicant proposes to conduct remediation activities to remove contaminated soils followed by construction of an athletic facility. Representative is David Sullivan of TRC Environmental. **CONTINUED**

## **OLD BUSINESS:**

1. **SE49-0528 – (Continued from 9/20/16) - Request for Certificate of Compliance as filed by Whalers Woods Realty Trust for property identified as 137 Mate Drive (Map 130G, Lots 200 & 210).** Representative is Richard Rheume of Prime Engineering. **CONTINUED**
2. **(Continued from 9/20/16) - Request for Determination of Applicability as filed by City of New Bedford Department of Parks, Recreation & Beaches for property identified as Brock Avenue and Freedom Boulevard (Map 006, Lot 1).** Applicant requests to remove and/or cut wetland vegetation in Victory Pond. Representative is Mary Rapoza of Parks Recreation & Beaches.

Mr. David Fredette, Engineer with the City of New Bedford representing Parks, Recreation and Beaches. Mr. Fredette stated that there is an issue with working by hand in waders or from a non-motorized boat as they cannot pull out the vegetation because it's so long and embedded that they cannot do it by hand.

Agent Porter stated that the problem is that there are two resources areas, one is land under water way and water bodies and the vegetation is in the pond that needs to be removed. Under the Performance Standard of the Wetlands Protection Act, if the wetland exceeds 5,000 s.f. of alteration you are required to file a Notice of Intent and have to perform a wildlife habitat evaluation.

The second resource area is the Bank of the Pond where it exceeds 50 linear feet of Bank alteration and also requires the filing of an NOI and a wildlife habitat evaluation.

Agent Porter explained that they are currently performing work under an old RDA that expires tomorrow. This RDA is for additional work but it requires the filing of Notice of Intent.

Mr. Fredette stated that he will report all this back to Mary Rapoza.

3. **SE49-267 (Continued from 9/6/16, 9/20/16)- Request for Certificate of Compliance as filed by David Fredette, City of New Bedford DPI, for property identified as John Vertente Boulevard (East Side) (Map 135, Lot 2).** Representative is David Fredette.
4. **SE49-0517 (Continued from 9/6/16, 9/20/16) - Request for Certificate of Compliance as filed by Whalers Woods Realty Trust for property identified as 94 Mate Drive (Map 130G, Lot 188/239).** Representative is Richard Rheume of Prime Engineering. Owner has been requested to appear to address violations of the 25' No Disturb Zone/Conservation Area. **CONTINUED**
5. **SE49-0519 (Continued from 9/6/16, 9/20/16) - Request for Certificate of Compliance as filed by Whalers Woods Realty Trust for property identified as 110 Mate Drive (Map 130G, Lot 190).** Representative is Richard Rheume of Prime Engineering. **CONTINUED**
6. **SE49-520 (Continued from 9/6/16, 9/20/16) Request for Certificate of Compliance as filed by Whalers Woods Realty Trust for property identified as 118 Mate Drive (Map 130G, Lot 191).** Representative is Richard Rheume of Prime Engineering. **CONTINUED**
7. **SE49-0533 (Continued from 9/6/16, 9/20/16) Request for Certificate of Compliance as filed by Whalers Woods Realty Trust for property identified as 29 Schooner Court (Map 130G, Lot 231).** Representative is Richard Rheume of Prime Engineering. **CONTINUED**
8. **SE49-0514 (Continued from 9/6/16, 9/20/16) Request for Certificate of Compliance as filed by Whalers Woods Realty Trust for property identified as 52 Mate Drive (Map 130G, Lot 236).** Representative is Richard Rheume of Prime Engineering. **CONTINUED**
9. **SE49-0515 (Continued from 9/6/16, 9/20/16) Request for Certificate of Compliance as filed by Whalers Woods Realty Trust for property identified as 60 Mate Drive (Map 130G, Lot 262).** Representative is Richard Rheume of Prime Engineering. **CONTINUED**

## **CONTINUED NEW BUSINESS:**

### **1. Emergency Certifications for Sassaquin Pond**

Mr. David Fredette, Engineer with the City of New Bedford DPI was present and stated that the work has commenced and the work off of Leroy Street has already been completed.

Agent Porter stated that these Emergency Certifications were discussed at the last meeting and the Commission had given her approval to issue them so they need to ratify them tonight. The Leroy Street repair has been completed, the work to be allowed is to repair the stone headwall as described on accompanying plan. The headwall has collapsed and shall be rebuilt. Extreme low water in Sassaquin Pond shall allow the work to be completed in the dry which is essential to minimizing impacts on the pond. The Special Conditions are as follows: the work area shall be encircled in silt fence and straw waddles prior to the onset of construction, erosion controls shall remain in place until all bare soil has

been re-vegetated, removal of native vegetation shall be kept to a minimum and not to exceed 2' on either side of the headwall to be repaired, and all construction debris on the beach shall be removed following completion of repair.

Commissioner Gonsalves made a motion to ratify the Emergency Certification for off of Leroy Street. Motion was seconded by Commissioner Pacheco. All in favor. Motion carries.

The second Emergency Certification is for Morton Avenue. Agent Porter advised that she has spoke with Commissioner Audette with regard to said matter. The work to be allowed is rebuilding of the headwall and eroded bank as described in plan and shown in photos. They are proposing a concrete wall and then backfilling behind it to prevent erosion. There is a tree that also has to be cut down. Mr. Fredette stated that that the tree has already been cut down and the work was started today. Agent Porter added that the Special Conditions are as the same as mentioned for Leroy Street.

Commissioner Gonsalves made a motion to ratify the Emergency Certification for Morton Avenue. Motion was seconded by Commissioner Pacheco. All in favor. Motion carries.

### **1. Agent updates**

Agent Porter advised that the AM Radio Tower site on Rte. 140 they have requirement for monitoring the wetland plantings,, they were supposed to come in with cables and go through the wetland but ended up not having to go through the wetland instead just cut the wetland vegetation down, planted wetland shrubs and seeded it with a wetland seed mix and also did a re-planting in the 25' no disturb area. They are inquiring whether they can do the monitoring themselves as engineers or if they have to have a wetland specialist do the monitoring. Agent Porter feels that they can do the shrub monitoring but did question them on the seed mix because they have to look at plant diversity, general plant cover, signs of drought, etc and does not think they are capable of looking at the diversity and offer input on the invasive species for that area. They will have a specialist come in next spring/fall to look at seed mix success and incorporate their findings into the wetland monitoring report. Agent Porter and the Commission agreed that this is reasonable.

### **2. General Correspondence**

129 Schooner Court, sent them letter with regard to the grass clippings along with three other letters to Whalers Woods. All letters will be mailed out tomorrow.

### **3. Meeting Minutes of 4/5/16, 4/19/16 & 5/3/16 for approval**

There being no additions, corrections or deletions of substance, a motion to approve the Meeting Minutes of April 5, 2016 was made by Commissioner Gonsalves. Motion was seconded by Commission Pacheco. All in favor. Motion carries.

There being no additions, corrections or deletions of substance, a motion to approve the Meeting Minutes of April 19, 2016 was made by Commissioner Gonsalves. Motion was seconded by Commissioner Pacheco. All in favor. Motion carries.

There being no additions, corrections or deletions of substance, a motion to approve the Meeting Minutes of May 3, 2016 was made by Commissioner Gonsalves. Motion was seconded by Commissioner Pacheco. All in favor. Motion carries.

Commissioner Audette made a motion to adjourn at approximately 7:15. Motion was seconded by Commissioner Pacheco. All in favor. Motion carries.

Respectfully submitted,

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Sandy Douglas  
Administrative Specialist