



MAYOR
JON MITCHELL

**City of New Bedford Conservation Commission •
Department of Environmental Stewardship**

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Conservation • Environmental Stewardship • Resilience

**Meeting Minutes of the Conservation Meeting of
September 1, 2020
REMOTE PUBLIC HEARING VIA ZOOM**

Members Absent

Staff Present

Sarah Porter, Conservation Agent

Sandy Douglas, Administrative Coordinator

**Chairman Audette read Conservation Commission Remote Open Meeting
Procedures as follows:**

This is Conservation Commission Chairman Dennis Audette speaking and opening the remote Conservation Commission meeting of September 1, 2020 at 6:30 PM.

Please permit me to confirm that all members and persons anticipated on the agenda are present and can hear me:

Conservation Commission members when I call your name please respond in the affirmative:
Vice Chairman Paul Pacheco-Present, Commissioner Peter Blanchard-Present.

Conservation Commission staff please respond in the affirmative: Conservation Agent Sarah Porter-Present, Administrative Coordinator Sandy Douglas-Present.

This Open meeting of the Conservation Commission is being conducted remotely consistent with Governor Baker's Executive Order of March 12, 2020, due to the current State of Emergency in the Commonwealth due to the outbreak of the COVID-19 Virus.

The Order, allows public bodies to meet entirely remotely so long as reasonable public access is afforded so that the public can follow along with the deliberations of the meeting.

Ensuring public access does not ensure public participation unless such participation is required by law. This meeting will feature public comment.



Meeting Materials: All supporting materials have been provided to members of this body and are available on the City website unless otherwise noted. The public is encouraged to follow along using the posted agenda.

Meeting Ground Rules

Before turning to the first item on the agenda, I will review the ground rules for effective and clear conduct of our business and to ensure accurate meeting minutes:

I will introduce each speaker on the agenda. After they conclude their remarks, I will go down the list of Commissioners, inviting each by name to provide any comment, questions or motions. Please hold until your name is called. Further,

- Please mute your phone or computer when you are not speaking
- Please remember to speak clearly and in a way that helps generate accurate meeting minutes.

For any response, please wait until the Chair yields the floor to you and state your name before speaking.

If Commissioners wish to engage in colloquy with other members, please do so through the Chair, taking care to identify yourself.

After Commissioners have spoken, I will afford public comments as follows:

- I will first ask whether there are any written public comments submitted via email and whether such comments were distributed to the commission prior to the meeting. If time has not allowed for the email comments to be reviewed by the commission prior to the meeting, I will ask that those comments be read aloud by the Conservation Agent.
- I will first ask members of the public who wish to speak to identify with their names and addresses
- Once I have a list of all public commenters, I will call on each by name and afford 3 minutes for any comments.

Finally, each vote taken in this meeting will be conducted by roll call vote.

OLD BUSINESS:

1. **SE49-0658** – (Continued from 7/7/20, 7/21/20, 8/3/20, 8/18/20) – Request for a Certificate of Compliance as filed by Carlos Pena of Foth Infrastructure & Environment, LLC for property identified as 1 Cape Street, New Bedford, (Map 42, Lot 260). Representative is Carlos Pena. **Continued until September 15, 2020**

NEW BUSINESS:

1. **SE49-0809** - Request for a Certificate of Compliance as filed by Farland Corp for property identified as 127 Duchaine Boulevard (Map 133 - Lot 21). Representative is Stevie Carvalho of Farland Corp.



Mr. Jack Tabares of Farland Corp., spoke on behalf of the applicant. Mr. Tabares advised that the project has been built to substantial compliance and requested a Certificate of Compliance.

No comments were heard in favor or in opposition of this project

Agent Porter advised that the as built shows an exact 5,000 s.f., of alteration from the building but it also shows grading around the building at elevation 82 which is higher than the BVW elevations which are at 81. Agent Porter recommended sending this to Nitsch for review to have them confirm as to how many square feet of wetland was filled because if it goes over 5,000 s.f., it becomes an issue for DEP and the Commission cannot approve anything over 5,000 s.f. Nitsch will need to review the stormwater system and determine how much wetland was filled.

Vice-Chairman Pacheco made a motion to send to Nitsch for review. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

Roll Call Vote:

Vice-Chairman Paul Pacheco- Vote in favor.
Chairman Peter Blanchard- Vote in favor
Chairman Dennis Audette- Vote in favor.

All in favor. Motion carries.

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, 10/6/16, 10/18/16, 11/1/16, 11/15/16, 12/20/16, 12/27/16, 1/17/17, 2/7/17, 2/21/17, 3/7/17, 3/21/17, 4/4/17, 4/18/17, 5/2/17, 5/16/17, 6/6/17, 6/20/17, 7/5/17, 7/18/17, 8/8/17, 8/22/17, 9/5/17, 9/19/17, 10/3/17, 10/17/17, 11/7/17, 11/21/17, 12/5/17, 12/19/17, 1/2/18, 1/16/18, 2/6/18, 2/20/18, 3/6/18, 3/20/18, 4/3/18, 4/17/18, 5/1/18, 5/15/18, 6/5/18, 6/19/18, 7/3/18, 7/17/18, 8/7/18, 8/21/18, 9/4/18, 9/17/18, 10/2/18, 10/16/18, 11/6/18, 1/20/18, 12/4/18, 12/18/18, 01/8/19, 1/22/19, 2/5/19, 2/19/19, 3/5/19, 3/19/19, 4/4/19, 4/16/19, 5/7/19, 5/21/19, 6/4/19, 6/18/19, 7/2/19, 7/16/19, 8/6/19, 8/27/19, 9/3/19, 9/17/19, 10/2/19, 10/15/19, 11/5/19, 11/19/19, 12/3/19, 12/17/19, 1/7/20, 1/21/20, 2/4/20, 2/18/20, 3/10/20, 3/24/20, 6/16/20, 7/7/20, 7/21/20, 8/3/20, 8/18/20) - 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 Attorney Thomas Crotty. **Continued until September 15, 2020.**
2. **SE49-0810** – (Continued from 9/4/18, 9/17/18, 10/2/18, 10/16/18, 11/6/18, 11/20/18, 12/4/18, 12/18/18, 01/8/19, 1/22/19, 2/5/19, 2/19/19, 3/5/19, 3/19/19, 4/4/19, 4/16/19, 5/7/19, 5/21/19, 6/4/19, 6/18/19, 7/2/19, 7/16/19, 8/6/19, 8/27/19, 9/3/19, 9/17/19, 10/2/19, 10/15/19, 11/5/19, 11/19/19, 12/3/19, 12/17/19, 1/7/20, 1/21/20, 2/4/20, 2/18/20, 3/10/20, 3/24/20, 6/16/20, 7/7/20, 7/21/20, 8/3/20, 8/18/20) - A Notice of Intent as filed



by Norman Nichols for property identified as a 50' wide easement through Map 130A, Lot 720. Applicant proposes a stream crossing for a 20' wide paved drive which shall alter Bordering Vegetated Wetland, Bank and Land Under a Waterway. Representative is Richard Rheume of Prime Engineering.

Agent Porter advised that Richard Rheume has requested a continue until September 15, 2020. However, this project is over two years old and in accordance with the Regulations it has expired unless the applicant puts in a request for a continuance and if so they need to address that: (a) good cause exists for the delay of proceedings under 310 CMR 10.00; and (b) that the applicant has continued to pursue the project diligently in other forums in the intervening period, provided that unfavorable financial circumstances shall not constitute good cause for delay. Agent Porter will notify them that this needs to be addressed at the September 15th meeting.

Commissioner Blanchard made a motion to continue to September 15th. Motion was seconded by Vice-Chairman Pacheco. All in favor. Motion carries.

Roll Call Vote:

Vice-Chairman Paul Pacheco- Vote in favor.
Chairman Peter Blanchard- Vote in favor
Chairman Dennis Audette- Vote in favor.

All in favor. Motion carries.

- 3. SE49-0852 - (Continued from 6/16/20, 7/7/20, 7/21/20, 8/3/20, 8/18/20) - Notice of Intent as filed by Marc Wilson for property identified as 1078 June St., New Bedford (Map 136A, Lot 718).** Applicant proposes an addition to an existing house and a paved driveway in the Buffer Zone to Bordering Vegetated Wetlands. Representative is Peter DeFusco.

Mr. Peter DeFusco spoke on behalf of the applicant Mr. DeFusco advised that they have been corresponding back and forth with Nitsch Engineering with regard to calculations that the wetland does not meet isolated wetland subject to flooding and therefore, requested that they withdraw their application due to the fact that it's non-jurisdictional. The Commission is in agreement with Nitsch's findings.

No comments were heard in favor or in opposition of this project.

Agent Porter concurred that they withdraw their NOI because there is no jurisdiction on that property.

Vice-Chairman Pacheco made a motion to accept the applicant's request to withdraw their application. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

Roll Call Vote:

Vice-Chairman Paul Pacheco- Vote in favor.



Chairman Peter Blanchard- Vote in favor
Chairman Dennis Audette- Vote in favor.

All in favor. Motion carries.

NEW HEARINGS:

- 1. A Notice of Intent as filed by MIH1, LLC for property identified as Farland Circle (Map 130D, Lot 475).** Applicant proposes construction of a single-family dwelling with associated utilities and grading in the Buffer Zone to Bordering Vegetated Wetlands. Representative is Jack Tabares of Farland Corp.

Mr. Jack Tabares of Farland Corp. spoke on behalf of the applicant. Mr. Tabares advised that they are proposing a single family home in the 100' buffer zone. Haybales will be used for erosion control. City sewer and water, stormwater chambers for the roof runoff are proposed. They are also proposing grading in the 25' buffer zone. The house is as close to the road as possible and they have the stonewall at the limit of work with signage. Mr. Tabares added that with previous lots constructed at Farland Estates they have kept all the work out of the 25' buffer zone but don't think it is possible with this home. They have also designed it to be a walkup to minimize disturbance to the lot and wetland area.

Chairman Audette stated that they cannot work in the 25' buffer zone and they will have to re-configure so they are not working in the buffer zone. A DEP File number has also not been received yet so this matter will have to be continued. Mr. Tabares requested it be continued to the next meeting.

Vice-Chairman Pacheco made a motion to continue to September 15. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

Roll Call Vote:

Vice-Chairman Paul Pacheco- Vote in favor.
Chairman Peter Blanchard- Vote in favor
Chairman Dennis Audette- Vote in favor.

All in favor. Motion carries.

- 2. A Notice of Intent as filed by MIH1, LLC for property identified as Farland Circle (Map 130D, Lot 476).** Applicant proposes construction of a single-family dwelling with associated utilities and grading in the Buffer Zone to Bordering Vegetated Wetlands. Representative is Jack Tabares of Farland Corp.

Mr. Jack Tabares of Farland Corp. spoke on behalf of the applicant. Mr. Tabares advised that this lot is adjacent to the previous lot and this house is also inside the 100' buffer zone. Haybales are proposed for erosion control. City sewer and water and stormwater chambers for the roof runoff are proposed. A stonewall or arborvitae shall be at the 25' buffer zone to protect the wetland with signage.



No comments were heard in favor or in opposition of this project.

Chairman Audette advised that a DEP File number has not yet been received and therefore this project is to be continued to September 15, 2020.

Commissioner Blanchard made a motion to continue to September 15. Motion was seconded by Vice-Chairman Pacheco. All in favor. Motion carries.

Roll Call Vote:

Vice-Chairman Paul Pacheco- Vote in favor.
Chairman Peter Blanchard- Vote in favor
Chairman Dennis Audette- Vote in favor.

All in favor. Motion carries.

NEW BUSINESS CONTINUED:

1. Agent Updates/General Correspondence

Agent Porter advised that a Public Hearing Notice was received from Army Corps., for DPI's beach nourishment project. Agent Porter stated that the comment deadline is October 1st and doesn't feel it is necessary to comment since a permit has already been issued by the Conservation Commission.

1143 Sassaquin Avenue

Agent Porter advised that a complaint was received regarding vegetation being cut in the BVW. Agent went to the site and left her card with a note not to cut the vegetation and it's not a very large area (it's approximately 15'x4'). A letter was also sent to the homeowner but apparently, it's the tenant that has done the cutting according to the person that complained

Rainfall data

Agent Porter advised that Nitsch would like the Commission to use Atlas 14 as it is more current. Agent Porter would like to speak with someone at DEP first. TP-40 is what DEP is using and is what is approved under the stormwater management guidelines. However, DEP is getting ready to revise the stormwater guidelines to utilize Atlas 14. Agent Porter sent an email to DEP requesting some comment on this.

2. Approval of August 18, 2020 Meeting Minutes



Vice-Chairman Pacheco made a motion to approve the August 18, 2020 Meeting Minutes. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

Roll Call Vote:

Vice-Chairman Paul Pacheco- Vote in favor.

Chairman Peter Blanchard- Vote in favor

Chairman Dennis Audette- Vote in favor.

All in favor. Motion carries.

ADJOURN

Commissioner Blanchard made a motion to adjourn at approximately 6:54. Motion was seconded by Vice-Chairman Pacheco.

Roll call vote:

Vice-Chairman Paul Pacheco-Yes

Peter Blanchard – Yes

Chairman Dennis Audette – Yes

Respectfully submitted,

Sandy Douglas, Administrative Coordinator

