

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 June 15, 2021

PUBLIC HEARING held at the Brooklawn Senior center, 1997 Acushnet Avenue, New Bedford, MA

Members Absent

Staff Present

Chancery Perks, Conservation Agent Sandy Douglas, Admin. Coordinator

CALL MEETING TO ORDER

Chairman Audette called the meeting to order at 6:30 pm

ROLL CALL OF COMMISSIONERS

Chairman, Dennis Audette, Vice Chairman Peter Blanchard, Commissioner Peter Blanchard, Commissioner Sean Carney, Commissioner Kimberly Rioux

GENERAL PROCUEDURES FOR HEARING

Chairman Audette read General Procedure for Hearings for the record.

OLD BUSINESS:

(Continued from June 2, 2021) - A Request for Determination of Applicability as filed by Hangers4planes for property identified as Old Plainville Road, (Map 124, Lot 2). The applicant is requesting verification of the boundaries of the Bordering Vegetated Wetlands as depicted on the plan. Representative is Alison Cesar of SITEC.

Ms. Alison Cesar of SITEC was present on behalf of the applicant and advised that at the last meeting, the Commission didn't feel that it was clear where on the property the area was and since then they have had their professional wetland scientist update the plan.



Agent Perks has gone out to the site and agrees with their wetland delineation and could not find Flag 110. From Flag 108 upwards, the current mowing was on that 25' no touch line, Flag 107 and Eastwards has been mowed into a little bit and will discuss with the Airport how the mowing patterns can be changed.

Agent Perks recommended the issuance of a Determination of Applicability with a positive Box 2.

Commissioner Carney made a motion to issue a Determination of Applicability with positive Box 2. Motion was seconded by Vice-Chairman Blanchard.

Roll Call Vote:

Vice-Chairman Peter Blanchard- Vote in favor Commissioner Sean Carney-Vote in favor. Commissioner Kimberly Rioux-Vote in favor. Chairman Dennis Audette- Vote in favor.

Motion passes.

NEW BUSINESS:

1. A Request for Determination of Applicability as filed by Linton Harrington for property identified as 224 Brock Avenue (Map 6, Lot 1). The applicant is proposing a temporary 20' x 10' or two 10'x10' storage containers to be placed within a 100' buffer zone of Victory Pond. Representative is Linton Harrington.

Mr. Linton Harrington, Director of Program and Operation for Youth Opportunities Unlimited was present and advised that they run the youth program out of the Warming House and would like to place a storage container behind the building to store bicycles. The program involves getting children out on bikes and exploring the South End of the City. They have approximately 30 bikes and do not have the room in the Warming House for storage.

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

Commissioner Blanchard inquired whether this would be permanent. Mr. Harrington replied that its' not a permanent structure and it can be picked up and moved anytime and only renting the container for the summer right now and hoping to purchase one in the future.

Chairman Audette inquired as to what type of storage container. Mr. Harrington replied that it's a steel storage container, 20' long x 8' wide by rented from Valtran in New Bedford they were hoping to get 10' containers but they do not have any available right now.



Chairman Audette inquired if they are looking for a three-year permit or one year. Mr. Harrington is hoping for a three-year permit.

Commissioner Carney made a motion to issue a Determination of Applicability with negative Box 2 for three years. Motion was seconded by Vice-Chairman Blanchard.

Roll Call Vote:

Vice-Chairman Peter Blanchard- Vote in favor Commissioner Sean Carney-Vote in favor. Commissioner Kimberly Rioux-Vote in favor. Chairman Dennis Audette- Vote in favor.

Motion passes.

2. <u>SE49-0532</u> - Request for a Certificate of Compliance as filed by Whalers Woods Realty Trust for property identified as Schooner Court (Map 130G, Lot 230). Representative is Richard Rheaume of Prime Engineering.

Mr. Richard Rheaume of Prime Engineering was present on behalf of the applicant and advised that the site is fully stabilized and requested a Certificate of Compliance

Agent Perks met with Mr. Rheaume on site. The house was built some years ago and the site is stabilized, no concerns.

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

Commissioner Carney made a motion to issue a Certificate of Compliance. Motion was seconded by Vice-Chairman Blanchard.

Roll Call Vote:

Vice-Chairman Peter Blanchard- Vote in favor Commissioner Sean Carney-Vote in favor. Commissioner Kimberly Rioux-Vote in favor. Chairman Dennis Audette- Vote in favor.

Motion passes.

3. <u>SE49-0783</u> - Request for a Certificate of Compliance as filed by Farland Corp., for property identified as Phillips Road, (Map 134, Lot 470). Representative is Jack Tabares of Farland Corp.

Agent Perks advised that he met with the applicant on site and asked him to re-seed the lawn which he did, fence and signage is up, and the as-built has been submitted and recommended the issuance of a Certificate of Compliance.



Commissioner Carney made a motion to issue a Certificate of Compliance. Motion was seconded by Vice-Chairman Blanchard.

Roll Call Vote:

Vice-Chairman Peter Blanchard- Vote in favor Commissioner Sean Carney-Vote in favor. Commissioner Kimberly Rioux-Vote in favor. Chairman Dennis Audette- Vote in favor.

Motion passes.

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, 9/1/20, 9/15/20, 10/6/20, 11/3/20, 11/17/20, 12/1/20, 12/15/20, 1/5/21, 1/19/21, 2/16/21, 3/2/21, 3/16/21, 4/6/21, 4/20/21, 5/4/21, 5/18/21, 6/1/21) - 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 Tom Crotty, Esquire.

CONTINUED

Vice-Chairman Blanchard made a motion to continue to July 6, 2021. Motion was seconded by Commissioner Carney.

Roll Call Vote:

Vice-Chairman Peter Blanchard- Vote in favor Commissioner Sean Carney-Vote in favor. Commissioner Kimberly Rioux-Vote in favor. Chairman Dennis Audette- Vote in favor.

Motion passes.

2. <u>SE49-0865</u> (Continued from 2/6/21, 3/2/21, 3/16/21, 4/6/21, 4/20/21, 5/4/21, 5/18/21, 6/1/21) - A Notice of Intent as filed by Joseph Swift of Crystal Ice Co., Inc., for property identified as 155, 178 Front Street, (Map 53, Lots 116-119, 241). The applicant proposes to repair/replace portions of the timber wharf structure which are



moderately to severely damaged due to vessel impact and timber deterioration. Representative is Richard Fitzgerald of AGM Marine. **CONTINUED TO 7/6/2021**

Commissioner Carney made a motion to continue to July 6, 2021. Motion was seconded by Vice-Chairman Blanchard.

Roll Call Vote:

Vice-Chairman Peter Blanchard- Vote in favor Commissioner Sean Carney-Vote in favor. Commissioner Kimberly Rioux-Vote in favor. Chairman Dennis Audette- Vote in favor.

Motion passes.

3. <u>SE49-0870</u> – (Continued from 5/4/21, 5/18/21, 6/1/21) - A Notice of Intent as filed by Michael Panagakos for property identified as Phillips Rd., Braley Rd. (Map 136, Lot 468). Applicant proposes to construct a commercial building within the 100' buffer zone. Representative is Dan Gioiosa of SITEC, Inc. <u>CONTINUED TO 7/6/2021</u>

Commissioner Carney made a motion to continue to July 6, 2021. Motion was seconded by Vice-Chairman Blanchard.

Roll Call Vote:

Vice-Chairman Peter Blanchard- Vote in favor Commissioner Sean Carney-Vote in favor. Commissioner Kimberly Rioux-Vote in favor. Chairman Dennis Audette- Vote in favor.

Motion passes.

4. <u>SE49-0871</u> - (Continued from 6/1/21) - A Notice of Intent as filed by Shawn Syde, City of New Bedford for property identified as 1000 South Rodney French Boulevard (Map 002, Lot 002). The applicant is proposing to rehabilitate portions of the Fort Taber pier that have been subject to settlement and loss of granite support and face stones. The pier will be repaired through utilizing the existing granite stones that have been dislodged to restore the pier. Stone fill will be sed between the stones and will be pressure filled with grout to secure the stones in place. Representative is Dennis Moran of Tighe & Bond, Inc.

Mr. Dennis Moran of Tighe & Bond, Inc., was present on behalf of the applicant and advised that at the last meeting the Commission has some concerns. Mr. Moran advised that DEP File # has been received and DMF and Natural Heritage review has been received and both have no concerns, and letters have been submitted. Chairman Audette inquired whether a Chapter 91 Permit there is a requirement for this work. Mr. Moran replied that there is an existing Chapter 91 Permit from 1935, and the repair and rehab of the existing structure is allowed under that existing permit and do not require a refiling for Chapter 91.



Mr. Moran advised that they are proposing to use Mass DOT approved 5,000 psi concrete mix and there is a possibility of that mix having polymer to make the concrete pulpable to expand into the voids.

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

Agent Carney suggested that concrete be set before tide rolls in. Mr. Moran agreed.

Agent Perks recommended the issuance of an Order of Conditions with special riverfront conditions #21-48.

Commissioner Carney made a motion to issue an Order of Conditions with special riverfront conditions #21-48. Motion was seconded by Vice-Chairman Blanchard.

Roll Call Vote:

Vice-Chairman Peter Blanchard- Vote in favor Commissioner Sean Carney-Vote in favor. Commissioner Kimberly Rioux-Vote in favor. Chairman Dennis Audette- Vote in favor.

Motion passes.

NEW HEARINGS:

1. A Notice of Intent as field by Jason Braz for property identified as Riverview Terrace (Map 6, Lot 54). The applicant is proposing construction of a single-family dwelling with a deck, landscaping and associated grading and utilities. Work is located in the Flood Zone AE17. Representative is Jamie Bissonnette of Zenith Consulting Engineering, LLC.

Mr. Jamie Bissonnette of Zenith Consulting Engineering was present and advised that this project is for the construction of a single-family home in AE17 Flood Zone. A small portion of the deck and accessory grading falls within the jurisdictional area but the majority of the house is outside of it including the infiltration and driveway. Mr. Bissonnette added that they were not able to pull the deck out of the jurisdiction and requested an Order of Conditions to allow to construct as shown.

Chairman Audette inquired if it is just the deck that is in the flood zone. Agent Perks replied that it was hard to tell.

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

Chairman Audette recommended they place a cultex system. Mr. Moran agreed to make that change.



Agent Perks inquired if Mr. Moran received any comments from the Building Dept., with regard to the deck being in the velocity zone. Mr. Moran replied that the deck will be elevated above the velocity zone and does not foresee a problem with the building department. Agent Perks recommended getting the comments from Building Department.

Chairman Audette suggested continuing this hearing so that Mr. Moran may make the suggested changes to the plan and get the letter from the Building Department.

Commissioner Carney made a motion to continue to July 6, 2021. Motion was seconded by Vice-Chairman Blanchard.

Roll Call Vote:

Vice-Chairman Peter Blanchard- Vote in favor Commissioner Sean Carney-Vote in favor. Commissioner Kimberly Rioux-Vote in favor. Chairman Dennis Audette- Vote in favor.

Motion passes.

2. A Notice of Intent as filed by New Bedford Port Authority for property identified as Pier 3/Fisherman's Wharf, Steamship Pier, Homers Wharf & South Terminal (Map 53, Lot 120). The applicant is proposing repairs/improvements to maintain the existing licensed waterfront structures, including maintenance repairs to the existing licensed steel bulkheads and pile supported piers which are located at Pier 3 /Fisherman's Wharf, Steamship Pier, Homers Wharf, Leonard's Wharf, & South Terminal. Representative is Daniela Abbot of Foth Infrastructure.

Mr. Ceasar Duarte, Director of Engineering and Operation New Bedford Port Authority was present together with Daniela Abbot of Foth Infrastructure. Mr. Duarte advised that New Bedford Port Authority applied for a Coastal Zone Management Coastal Resiliency Grant and an Economic Development Coastal Resiliency Grant and were granted funding. The Coastal Resiliency Grant allowed the Port Authority to expand current infrastructure and allow concepts for coastal zone flooding and sea level rise determinations and those funds will help to perform those repairs and resiliency portions.

There are five commercial piers, Pier 3 was constructed in the early 1800s redeveloped in the 1970s, it's a solid steel structure; The Steamship Pier, constructed portions in late 1800s redeveloped in the 1970s, pile supported structure; Homers Wharf, Leonards' Wharf were constructed in late 1800sm redeveloped in the 1970 pile supported structured, South Terminal a steel constructed bulkhead.

There are four types of repairs, steel repairs which consist of the patching of holes in the steel bulkhead, which is allowing material to migrate, this ranges from 2"-3" to 1' underwater divers to inspect all those infrastructures. All the solid fill piers have locations that need underwater patching. Steamship Pier requires jacketing of the piling under the water. The pile structures supporting the pier have deteriorated and will require fiberglass jackets to be



wrapped around and concrete poured to continue to support the structure. South Terminal only repair is to the Southern portion of the structure, the sheeting has started to erode, and sheeting is now exposed, have to install grout back at the tows to fill in the bottom portion. This project is time sensitive, do not have DEP file number as of yet currently and still in the design phase with EDA and CCM regarding funding for the design and construction portion. All structures are under existing Chapter 91 License.

Ms. Abbot added that three of the sites doing fender repairs are Pier 3, Steamship and South Terminal.

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

Chairman Audette inquired as to why this is not divided into five different projects. Ms. Abbot replied that they have done this in the past when the scopes are similar in nature and combine them to make it easier to process.

Chairman Audette finds it to be more difficult being combined and would like to see this broken up into the different projects and would like details for each project and per pier. Ms. Abbott will split up the construction details for each pier.

Mr. Duarte added that each project would include steel repairs, fender replacement, only two locations would be different in type of repair which is 3 &4 which is the jacketing and they have done this in the past in 2018 when they grouped the replacement of cold pocket pier.

Commissioner Carney stated that they are proposing maintenance and improvements and inquired as to what they consider to be improvements. Ms. Abbott advised that they have divided the project into repairs and improvements. Commissioner Carney also inquired if there is going to be something in place to catch the debris while they are stripping the concrete. Ms. Abbot replied that they will be collecting it while they are stripping.

Commissioner Carney commented that there is a temporary impact of 12,000 s.f., of tideland and how long do they anticipate this project will last. Ms. Abbot replied they anticipate it will last six months to a year have not split it up to each project site because they have not been phased yet. Commissioner Carney recommended that once have the phasing done, to please provide the Commission with it. Ms. Abbot stated that she can provide a more detail construction schedule as to how long each project will last

Chairman Audette inquired if they will be doing one pier at a time? Mr. Duarte replied that is their intent and will be working with the contractors and do not want to impact the fishing industry.

Agent Perks stated that the sequence of construction is very important and would also like to see each project broken up and detailed.

Chairman Audette inquired if work is being proposed in the parking lot. Mr. Duarte replied that there will be some removal of asphalt. Mr. Audette would also like this included in the detail.



Vice-Chairman Blanchard made a motion to continue to July 6, 2021. Motion was seconded by Commissioner Carney.

Roll Call Vote:

Vice-Chairman Peter Blanchard- Vote in favor Commissioner Sean Carney-Vote in favor. Commissioner Kimberly Rioux-Vote in favor. Chairman Dennis Audette- Vote in favor.

Motion passes.

NEW BUSINESS CONTINUED:

- 1. Agent Updates/General Correspondence
- 2. Mary Rapoza of Parks, Beaches and Recreation together with Leigh-Anne Hall with regard to Water Park at East Beach

Mary Rapoza from Parks, Beach and Recreation was present together with Leigh-Anne Hall and Ron Romens of WhoaZone.

Ms. Rapoza advised that in 2019 Altitude H2o installed the first water park in New Bedford and it was a complicated process and required more permitting than they anticipated. Altitude H20 took a big hit last year with COVID and are no longer in business. Mr. Romens worked with Altitude H20 and was instrumental in installing the park and he is with WhoaZone and will be taking over the waterpark in New Bedford. He will be using the same footprint and anchors.

Chairman Audette stated that one again, he found out about this water park (this is the second time around) from social media and that Mary Rapoza know on March 17th that business was transferred to Ron and she knew then that she would have to notify this commission and there is no reason why this was not brought to this Commission's attention. Chairman Audette stated that he had decided that if this had gone into the water, he was ready to issue a cease and desist. Mr. Rapoza replied that it was her misunderstanding that a preconstruction meeting was when construction was happening. She stated that she spoke with Agent Perks and sent him correspondence via email. Agent Perks replied that he has no recollection of this. Ms. Rapoza admitted that she did not make an request for a meeting and notification for when construction begin because the first step was to get divers out there to check the anchors and that just happened on June 4th or 5th and then would know when construction would begin. Chairman Audette stated that he learned that Fun 107 had posted on their site that it's a redesigned park. Chairman Audette requested that Mr. Romens explain if there are any design changes because in the Order of Conditions it states if there are any design changes, they would have to file an Amended Order of Conditions. Chairman Audette would just like to know what is going on and doesn't want this to end up like the last time this water park was before this Commission and wants to make sure it all goes according to plan. Ms. Rapoza stated it was her misunderstanding from pre-construction to inspection and cannot speak to what Fun 107 has posted.



Mr. Romens advised that he was involved with Altitude H20 and he owns commercial recreation specialist that distributes and provides equipment and design products and also has an separate company called Empire Recreation Management that owns and manages concessions across the country. Through Commercial Recreation Specialist he worked with Altitude H20 to design this park and set them up and help them get up & going. Altitude H20 is no longer in business and that Empire Recreation has five parks in Texas, Indiana, Michigan, two in Ohio and they have worked with the Army Corps. of Engineers and Coastguards. They have taken the original plan that was done in 2019 for Altitude H20 and have downsized it from the original footprint by taking a few pieces off, they are modular pieces that are inflated and pushed out. They have taken the existing anchor placements that are in place in the waterfront and overlayed this new park to those anchors with just a few less pieces. They can add pieces to it according to the original park, but it seemed that it was too big. Mr. Romens would like to start with the smaller scale setup and if it becomes popular can always add the pieces back into the existing anchors and there would not be any additional anchors placed. Mr. Romens was under the impression from working with Mary Rapoza that all permits were in place and apologized.

Mr. Romens added that he feels that this is a good asset to the beach for recreation. Mr. Romens advised that Ms. Leigh -Anne Hall is originally from New Bedford and she will be the manager for the water park. They anticipate this creating 25-35 jobs. Mr. Romens stated that he was out at the beach today and noticed that it needs some TLC and feels that having them there can help provide some TLC as far as keeping it clean and having a presence.

Mr. Romens stated that as part of this operation they have life jackets that need to be stored and have two aluminum life jacket racks that they would like to place on the beach. Chairman Audette stated that the current Order of Conditions is for a wooden one. Mr. Romens stated that an aluminum one is much less intrusive.

Chairman Audette will not give permission to change it from wood to aluminum. Mr. Romens will need to review the current Order of Conditions. Chairman Audette advised that also as part of the Order of Conditions if there is a storm that park needs to be removed. Ms. Rapoza replied that they have an emergency plan and severe weather plan in place that went through Licensing and reviewed with Emergency Management on site. Chairman Audette added that according to Order of Conditions the park needs to be removed within 24 hours if there are winds greater than 45 mph, and that nothing is to be stored on the pier and they cannot clean the equipment on the beach. Chairman Audette encouraged Mr. Romens to read through the Order of conditions and that they are not to add any equipment without talking to the Agent. Ms. Rapoza stated that they will be using the existing lifeguard building on the beach for storage.

Agent Perks stated that there are two separate Order of Conditions one is for the lifejacket rack and the other if for the water park. Agent Perks stated that as far as the water park Order of Conditions, there is no activity to occur prior to obtaining licenses and approval and copies submitted to the Commission. In terms of the life jacket Order of Conditions if the footprint and anchoring is the same then they can have other options and would like him to take this opportunity to explain it before jumping into requesting an amended order. Mr. Romens replied that the aluminum rack is three pieces that sets up in about 10 mins and it's very and the wood one is very heavy and harder to dissemble.



Mr. Romens will send the plans for the rack to the Agent and the rack is secured to the beach with sandbags just like the wood rack.

Chairman Audette is not agreeing to change anything with the life jacket rack until the paperwork is done and submitted.

Mr. Romens has a crew here that were going to float in the water and hook up the anchors line and inquired if this can be done. Chairman Audette replied NO it cannot be done.

Agent Perks inquired as to what is the timeline for this. Mr. Romens replied that today they went for a swim to verify things, the product was delivered to the parking lot on Monday and tomorrow they were going to inflate it on the beach, float it out and attach to anchor lines and it would be set up by Friday and then have staff training, lifeguard certification and then do a soft opening. It does not take a long time to inflate and float the stuff out.

Agent Perks inquired as what plan of action do, they have for the end of year? Ms. Rapoza replied that she is going to start working on the RFP for the project and have started that discussion with the Solicitor's Office and is hoping to have it out by the Fall so can have a determination by January.

Agent Perks confirmed that the date of issuance is July of 2019 so these anchors in theory can stay there until July of 2022.

Chairman Audette advised that if any changes are made that they call the Agent directly and wished them great success with the water park.

Agent Perks confirmed with Mr. Romens that they were not putting any rack out there until he received the plans. Mr. Romens agreed he will put up the wood one for now.

Ms. Rapoza added that they will also be providing overnight security. Mr. Romens stated that he had intent to rent umbrellas and chairs and inquired if that needs to come before the Commission. Agent Perks replied that he thinks it is something that would have to be permitted through the Parks Dept., and this Commission, but not sure.

3. MS4 Comments

Agent Perks advised that the MS4 comments were submitted.

4. Woods Hole Group Peer Review

Agent Perks advised that the Commission had previously approved \$4,000.00 to pay Woods Hole Group for consultant services for Aerovox but the amount may be more than the originally approved \$4,000.00. The original quote was \$5,200 and is not sure at this time how much more than that it will be but will keep the Commission posted.

5. Update on Emergency Certificate work at Crystal Ice



Agent Perks advised that the Crystal Ice job has concluded, and it went well.

ADJOURN

Commissioner Carney made a motion to adjourn at approximately 8:44. Motion was seconded by Vice-Chairman Blanchard.

Roll Call Vote:

Vice-Chairman Peter Blanchard- Vote in favor Commissioner Sean Carney-Vote in favor. Commissioner Kimberly Rioux-Vote in favor. Chairman Dennis Audette- Vote in favor.

Respectfully submitted,

Sandy Douglas, Administrative Coordinator

