



MAYOR
JON MITCHELL

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

133 William Street · Room 304 · New Bedford, Massachusetts 02740

Telephone: (508) 991.6188

Conservation • Environmental Stewardship • Resilience

**Meeting Minutes of the Conservation Meeting of
August 17, 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 6:37 pm

ROLL CALL OF COMMISSIONERS

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

GENERAL PROCUEURES FOR HEARING

Chairman Audette read General Procedure for Hearings for the record.

OLD BUSINESS:

NONE.

**Commissioner Carney made a motion to take Continued Hearing #5 out of
order. Motion was seconded by Commissioner Rioux.**

Roll Call Vote:



133 William Street-Room 304, New Bedford, MA 02740 - Telephone 508-991-6188

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.

OLD BUSINESS:

NONE.

NEW BUSINESS:

- 1. A Request for Determination of Applicability as filed by Phillips Road Business Park, LLC for property identified as Phillips Road, New Bedford, MA, (Map 136, Lot 467).** The applicant is requesting verification of the wetland line and to determine if area is subject to Jurisdiction of any applicable NB Wetlands Ordinance and/or the Wetlands Protection Act. Representative is Alison Cesar, SITEC/CEC, Inc.

Ms. Alison Cesar of SITEC/CEC., Inc., was present on behalf of the applicant and advised that they are requesting that the wetland line be confirmed on the property.

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

Chairman Perks advised that the site is already flagged, and he will have to delineate it and bring it before the Commission at the next meeting.

Commissioner Carney made a motion for the Agent to delineate the wetland. Motion was seconded by Vice-Chairman Blanchard.

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

All in favor. Motion carries.

Commissioner Carney made a motion to continue to September 9, 2021. Motion was seconded by Vice-Chairman Blanchard.

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

All in favor. Motion carries.



2. A Request for Determination of Applicability as filed by Thomas & Maria Ferreira for property identified as 34 Seaview Terrace, New Bedford, MA, (Map 6, Lot 29).

The applicant is proposing to construct a stone patio in the backyard of single-family home. Representative is Thomas Ferreira.

Mr. Thomas Ferreira was present and advised that he is requesting to install a stone paver patio in his backyard.

Agent Perks advised that Mr. Ferreira was part way through the process of installing the patio when he visited the site. Agent Perks advised that Mr. Ferreira has installed erosion controls and has filed the appropriate paperwork and is in compliance of Land Subject to Coastal Storm Flowage.

Commissioner Carney inquired if there would be any further excavation. Mr. Ferreira replied that there will be no further excavation.

Commissioner Perks recommended a negative determination of Box 6 and that photos be submitted once the project is complete.

Commissioner Carney made a motion to issue a negative determination of Box 6 with conditions as recommended by the Agent. Motion was seconded by Vice-Chairman Blanchard.

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

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, 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, 6/15/21, 7/6/21, 7/20/21, 8/3/21) - A Notice of Intent as filed by Anthony R. DaCosta 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**

Commissioner Carney made a motion to continue to September 9, 2021. Motion was seconded by Vice-Chairman Blanchard.

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

All in favor. Motion carries.

2. **SE49-0865** - (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, 6/15/21, 7/6/21, 7/20/21, 8/3/21) - 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**

Commissioner Carney made a motion to continue to September 9, 2021. Motion was seconded by Vice-Chairman Blanchard.

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

All in favor. Motion carries.

3. **SE49-0873** - (Continued from 7/6/21, 7/20/21, 8/3/21) - 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.

Ms. Susan Nilson of Foth Infrastructure was present together with Cesar Duarte of the New Bedford Port Authority. Ms. Nilson advised that the hearing was continued because there was a number of items the Commission required which was comments from Natural Heritage and DMF and Army Corps., all of which have been submitted.



Chairman Audette stated that he did not want all the projects to start at the same time. Ms. Nilson stated that will work for the NB Port Authority and they have submitted a schedule and will provide a more accurate one from the contractor.

Agent Perks advised that the DMF letter has time of year restriction for winter flounder from January 15 to May 31 that will be added as a condition.

Agent Perks recommended that they have weekly check-ins via a call, zoom, text, coastal zone special conditions, check-in with Commission at end of each pier work and time of year restriction conditions a recommended by DMF.

Commissioner Carney made a motion to issue an Order of Conditions. Motion was seconded by Vice-Chairman Blanchard.

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

All in favor. Motion carries.

4. **SE49-0874** – (Continued from 7/6/21, 7/20/21, 8/3/21) **A Notice of Intent as filed by Mary Rapoza, City of New Bedford Parks, Recreation & Beaches for property identified as 1 Oneida Street (Map 49, Lot 14).** The applicant is proposing to redesign the existing parking at the Buttonwood Park Community Center, add a new sidewalk and other site improvements, a new access pathway to the pond on site as well as stormwater management improvements. Representative is Danielle Spicer of Green International Affiliates, Inc.

Ms. Danielle Spicer of Green International Affiliates, Inc., was present on behalf of the applicant and advised that she did receive the letter from Nitsch Engineering and there are four outstanding issues that need to be addressed. Ms. Spicer addressed items #5, #7, #8 & #9.

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

Agent Perks recommended that those outstanding items be addressed with Nitsch for their final comment. Chairman Audette agreed.

Agent Perks advised that he has received a verbal from Nitsch that they do not have further concerns and their comments have been addressed.

Commissioner Carney made a motion that the Board is willing to go with the curbing. Motion was seconded by Vice-Chairman Blanchard.

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

All in favor. Motion carries.

Agent Perks recommended approving this Order on the condition that receive final letter from Nitsch.

Commissioner Carney made a motion to issue an Order of Conditions pending the return of Nitsch's report before the end of the month. Motion was seconded by Vice-Chairman Blanchard.

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

All in favor. Motion carries.

- 5. (Continued from 8/3/21) - A Notice of Intent as filed by Miles Sundermeyer Ph.D. for the properties identified as 706 S. Rodney French Blvd (map 3, parcel 5) and 1641 Padanaram Ave. (map 17A, parcels 1, 104, 105).** The applicant is proposing the installation of two 30' tall meteorological research towers at the two locations for a short-term project. Representative is Miles Sundermeyer Ph.D.

Mr. Miles Sundermeyer, Ph.D., was present and advised that he has submitted an addendum to address the questions raised by this Commission at the last meeting. One was that DEP file number had not yet been received and have since received that and another one was construction plan and had engineering consultant to provide that plan which has also been submitted. Also asked for plan on how towers would be removed in the event of a storm, those plans have also been provided for all proposed locations. Also, in the addendum is plans in the event the tower ends in the water in the event of a storm. They also provided plan on how to deter birds from nesting in the tower and have consulted with Mass Division of Fish and Wildlife and message was there is no standard way of deterring but one of option is half section of corrugated pipe to set on top of the structure and also devices called spiders they don't hurt the birds and makes it hard for them to land. There is a more custom design flexible pvc pipes that you put across as an obstruction so they cannot perch on the pipe. Will try out these three methods and see which one has the least impact on their scientific methods. They also sent an email to Agent Perks inquiring whether Conservation could approve what is in place acknowledging there are some neighbors that have concerns on the Community Boating Center location and can continue conversation with the neighbors at the Boating Center but could move forward at the other proposed locations.

Chairman Audette inquired whether there was anyone present who wished to speak against this project.



Kreg Espinola of 1626 Padanaram Avenue was present and advised that his objection is not on the whole project but the project being at the Community Boating site.

Nancy Cole of 1622 Padanaram Avenue advised that they had a meeting with Community Boating yesterday and their recommendation was an alternate location near the boats and not near the ocean.

No comments were heard in favor of the project.

Commissioner Carney inquired as to how they are going to control the dust from drilling from going into the water and how going to stop impact into the resource area.

Agent Perks suggested that their contractor put those measurers on paper.

Chairman Audette stated there seems to be some miscommunication between neighbors and Community Boating.

Mr. Sundermeyer stated that was not his understanding from the Community Boating Center and they still preferred the jetty site.

Agent Perks did speak with Community Boating earlier today and they still prefer that it is installed on the pier. Agent Perks recommended that the Cole's get the Community Boating's preference in writing.

Mr. Espinola is not satisfied with the response that has been submitted with regard to the ospreys.

Agent Perks advised that no one has presented anything that proves that the applicant has violated the eight interests of the Wetland Protection Act and the Commission is doing their best to work with the neighbors unless something is presented to prove violations, the Commission does not have anything that prevents them from voting in favor of this project. This project is still waiting for Chapter 91 response. Mr. Sundermeyer stated that they did submit the Chapter 91 License.

Commissioner Carney made a motion to continue to September 9, 2021. Motion was seconded by Commissioner Rioux.

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

All in favor. Motion carries.

NEW HEARINGS:



- 1. A Notice of Intent as filed by Steven Silverstein of Cisco New Bedford, LLC for property identified as 1494 East Rodney French Boulevard, New Bedford, MA (Map 12, Lot 77).** The applicant is proposing to install a gangway and floating dock on the north side of the existing timber pier. Representative is Susan Nilson of Foth Infrastructure & Environmental, LLC.

Ms. Susan Nilson was present on behalf of the applicant together with Richard Fitzgerald of AGM Marine. Ms. Nilson advised that there was a previous Order of Conditions issued to the previous owner for floating docks in 2017. That was a more significant project, trying to achieve access by folks coming in by boat. The previous order expired as ownership changed. The current owner is looking at a smaller float with small pier extension at the end. This project is outside of natural heritage area received comment letter from DMF they had no suggestions for mitigation or time of year. The land under ocean impacts is limited to anchor piles and floats.

Chairman Audette inquired whether there was anyone present who wished to comment in opposition of this project.

Alice Beauregard of 20 Norman Street, New Bedford, MA stated that she has concerns about this project because Buzzards Bay is a delicate bay and is already compromised. Ms. Beauregard stated that since the onset of pandemic has noticed a lot more wildlife in that immediate area including osprey & wild ducks. Mr. Silverstein opened this venue a couple of months ago and have had numerous issues and feel that he has not proven that he & his partner can run this establishment respectfully. They serve drinks to patrons in plastic cups add those cups will end up in the bay, this will add congestion to the harbor and has no reason to believe that Mr. Silverstein can responsibly expand this establishment.

Dorval DeMedeiros, 1242 East Rodney French Boulevard., New Bedford, MA agrees with Ms. Beauregard's comments and concerns and that there is a lot of wildlife in that area. The sound of the music travels to the Town of Fairhaven and the residents at Fort Phoenix have called the police to complain about the music.

Chairman Audette stated that comments are getting off the beating path and this Commission has no over noise and trash.

Chelle Samuels of 20 Clara Street, New Bedford, MA inquired as to what are the 8 interests of Wetland Protection Act.

Agent Perks stated that the 8 interests of the Wetland Protection Act are as follows:

Protection of private and public water supply

Protection of ground water supply

Flood control

Storm damage prevention

Protection of land containing shellfish

Protection of Fisheries

Protection of Wildlife Habitat



Prevention of pollution

Ms. Samuels stated that she bought this house last October and enjoyed the birds and wildlife that she had never seen before prior to Cisco opening. She feels that Cisco's existence is damaging there is a lot cars which causes pollution and then boats could possibly leak into the water, and trash from people. Would like to see an actual study of impact.

Ms. Beauregard feels that this Board should not only assess the physical installation to the bay but the after facts it will have in the bay, it's a beautiful area down there and it's a concern on how going to preserve it and this is just a portion of Mr. Silversteins' plan to add more to this structure in the future and does not want to overcrowd that area.

Garrett Norton of 29 Milbury Street, New Bedford, MA stated there is Chapter 91 issues and there is wildlife everywhere out there and is concerned what this going to do to the environment.

Chairman Audette questioned if rafts will be suspended if recoil the lines if tides change like was done at Kyler's.

Ms. Nilson replied this one is a heavy chain, and this is sand bar granular bottom.

Mr. Richard Fitzgerald advised that the system designed uses concrete anchor blocks and weight of a chain.

Agent Perks advised that will forward this to a consultant to review.

Chairman Audette inquired if the rafts will be coming out. Ms. Nilson replied that they are seasonal.

Commissioner Carney inquired as to what affects will have on wildlife habitat from that vibration. Mr. Fitzgerald replied that the pile driving is about half hour and will start off slow with hammer and speed along.

Agent Perks advised that they have DMF comments, and they recommended a slow start while pile driving and then drive the piles in. Chance read DMF's comments into record.

Commissioner Carney inquired if they would be staging any materials in the parking lot? Mr. Fitzgerald advised that the work will be done from the barge and the project is proposed to take a week.

Commissioner Carney inquired if this Commission needs detail on the piles or concrete blocks? Agent Perks replied do not believe one is necessary because they have provided the information in their permit

Agent Perks recommended they provide us with the difference between heavy chains system versus dynamic roping.



Commissioner Rioux feels that all people should have a good quality of life and everyone to be heard.

Elaine Kelleher of 15 Clara Street states that she agrees with everything her neighbors have said earlier and what is considered seasonal? Ms. Nilson responded from 5/1 to 10/31,

Mr. De Medeiros inquired as to how many boats can they put on the docks? Mr. Fitzgerald responded that it depends on the size of the boats.

Agent Perks recommended this be forwarded to Nitsch for review for the safety aspects and sent this along to the Police Marine Unit and there two comments were the foul weather conditions and if this was seasonal or not. DMF did not have any comments

Agent Perks inquired if running utilities and servicing any type of freshwater vessels. Mr. Fitzgerald replied the winch is battery & solar powered and not proposing any additional utilities.

Commissioner Carney made a motion to send to Nitsch Engineering for review. Motion was seconded by Vice-Chairman Blanchard.

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

All in favor. Motion carries.

Commissioner Carney made a motion to continue to September 9, 2021. Motion was seconded by Vice-Chairman Blanchard.

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

All in favor. Motion carries.

NEW BUSINESS CONTINUED:

- 1. Agent Updates/General Correspondence**
- 2. NBD Solar Planting Plan**

Agent Perks advised that during site inspection they did not do any of the plantings it's grown back but they want a COC but because of what's growing back he is suggesting that they need to



do their plantings but not follow the plan attached to their Order of Conditions agree that it's a minor administrative change and have them change their planting plan as he recommends and still have a two-year monitoring to make sure it establishes.

Commissioner Carney made a motion to send the applicant a letter with the new planting recommendation and if he agrees then can accept as a minor modification. Motion was seconded by Commissioner Blanchard.

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

All in favor. Motion carries.

A1 Asphalt Update

Agent Perks went to the site yesterday and the site is progressing, and they are moving stuff out of the BVW, they are clearing out the stockpile material and haul it off and Chance will be back out there first week of October to check on their progress and they have until end of November to be completely out of the buffer zone and seeded.

West Beach Nourishment

Agent Perks advised that the West Beach Nourishment work is being done by DPI, this is a huge project they are still trying to find funding but there are five alterations they are looking to make if agree with five alternative they are proposing 1) reorienting the groins that will be removed or altered, chance agrees 2) concrete removed, chance agrees 3) reseed the shellfish after project is done, chance says yes 4) using an enhance proposed course material which is the amour stone around wood structures on surface thinks it's a great idea but not sure on wood structure 5) automated valve for sewerage treatment plant this is not part of this commission's purview. Chance will communicate to DPI.

Chairman Audette recommended that they come before this Commission with their recommended alternatives and proposed plans.

139 Stevenson Street

Agent Perks advised that the applicant looking to make addition on the house, Chance recommends an RDA. The Commissioners agree with the Agent.

EMERGENCY CERTIFICATION

Agent Perks advised that Titleist had reached out late in the day today to advise that they had a release of zinc floral nasty metal filing that blew into parking and detention basin. They already



notified DEP and have Clean Harbors coming in tomorrow and are looking for an Emergency Certification to get the work down.

3. Meeting Minutes of July 20, 2021 for approval.

Commissioner Carney made a motion to approve the meeting minutes of July 20, 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.

ADJOURN

Commissioner Carney made a motion to adjourn at approximately 8:50. 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

