



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  
September 21, 2021  
PUBLIC HEARING held at the Brooklawn Senior center,  
1997 Acushnet Avenue, New Bedford, MA**

**Members Absent**

**Dennis Audette, Chairman**

**Staff Present**

**Chancery Perks, Conservation Agent  
Sandy Douglas, Admin. Coordinator**

**CALL MEETING TO ORDER**

Vice Chairman Blanchard called the meeting to order at 6:30 pm

**GENERAL PROCEDURE FOR HEARING**

Vice Chairman Blanchard read General Procedure for Hearings for the record.

**ROLL CALL OF COMMISSIONERS**

Commissioner Sean Carney and Commissioner Kimberly Rioux.

**OLD BUSINESS:**

1. (Continued from 8/17/21, 9/9/21) - 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.

Agent Perks advised that they requested a continuance late today.



Commissioner Carney made a motion to continue to 10/5/21. 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.

All in favor. Motion carries.

## **NEW BUSINESS:**

NONE.

## **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, 8/17/21, 9/9/21) - 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**
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, 8/17/21, 9/9/21) - A Notice of Intent as filed by Joseph Swift of Crystal Ice Co., Inc. 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**
3. **SE49-0875** - (Continued from 8/3/21, 8/17/21, 9/9/21) - 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.

Vice-Chairman Blanchard read into record his Missed Session Affidavit.

Agent Perks advised that he received an email from Mr. Hurley that they have come to an agreement with the neighbors. Mr. Sundermeyer confirmed that was correct.

Agent Perks recommended issuing an Order of Conditions with standard Coastal Zone Special Conditions including the following:

#50 - "The two towers are to be folded and secured down upon the issuance of a *High Wind Warning* (this warning applies to winds of 40 miles per hour (64 km/h) to 73 miles per hour (117 km/h) for at least 1 hour; *or* any gusts of 58 miles per hour (93 km/h) to 114 miles per hour (183 km/h) on land), consistent with the communications of the New Bedford Emergency Management Department warning system pursuant to the National Weather Service."

And

#51 - "The two towers are to be fully removed from the FEMA AE Flood Zone upon the issuance of a *Category 1 Hurricane Warning* or greater, (Hurricane conditions (sustained winds of 74 mph or greater) are expected somewhere within the specified area), consistent with the communications of the New Bedford Emergency Management Department warning system pursuant to the National Weather Service."

Mr. Sundermeyer stated the tower is designed to sustain winds up to 115 mph and doesn't feel that high winds make sense, and it can stay erect from 73 mph winds and higher and this is the National Standards for these kinds of towers.

Agent Perks stated that in speaking with Paul Fonseca it was determined that the removal during hurricane warning is more important.

Mr. Sundermeyer stated that if there is a hurricane, they will take down the structure.

Agent Perks stated that he can change #51 to read in the event of a hurricane it can be folded down and secure at the onset of category 1 or greater wind warning.

Commissioner Carney made a motion to issue an Order with Conditions with special conditions as read by the agent and change wording to not remove the base just the structure, two towers folded and secured upon Category 1 or greater hurricane warning pursuant to the National Weather Service. 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.

All in favor. Motion carries.



4. **SE49-0876** - (Continued from 8/17/21, 9/9/21) - 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.  
**CONTINUED**

## **NEW HEARINGS:**

1. **SE49-0877** - A Notice of Intent as filed by Harborview, LLC for property identified as 226 Popes Island (Map 60, Lot 11). The applicant is proposing to improve the commercial docking capabilities of the facility by removing an aged pile supported timber pier and replacing it with a concrete wave attenuator floating dock in the same general location. Representative is David M. Davignon, PE of Schneider, Davignon & Leone, Inc.

Mr. David Davignon of Schneider, Davignon & Leone was present on behalf of the applicant. Mr. Davignon advised that Caption Leroy's Fleet Marina is in poor shape, the piers are about 40 years old. Last year Phase 1 removed piece and put in concrete floating dock. Everything will be removed and replaced except for floating dock near timber pier. Everything will be a floating dock with new access, new fingers installed for vessel slips. Every single pile that exists will be removed and replaced there are 170 piles. They are also proposing expansion 25'x50' that will be pile supported. There will be a total of 778 linear feet of fixed pier that will be removed including the fingers. There will be 1134 linear feet of floating dock that is being installed. Installing 114 steel or timber piles. Removing 170 piles and replacing them with 114. The area of pier being removed totals 5824 s.f. All the work is being proposed to be done from a barge/crane, there is no activity from land or coastal bank. This project will require Chapter 91 Waterways License. All material will be loaded onto barge and disposed of elsewhere. The time restriction on the project is January 15 to June 30 and the work won't commence until July 1<sup>st</sup>. They also need MEPA and Army Corps., of Engineer.

Commissioner Carney inquired as to where the material will be disposed of.

Mr. Davignon replied that AGM Marine will be doing the work and they will dispose of the material and there will be no storage of waste materials on site.

Commissioner Carney inquired concern on how they will be catching debris from falling into the ocean. Mr. Davignon replied that they will be sending in a diver to catch debris from the bottom. Commissioner Carney added that he would like to see a plan on how they will prevent debris from going into the water instead of a diver.

Commissioner Carney expressed concern with regard to the proposed change in water quality. Mr. Davignon replied that it will be a temporary impact.



Agent Perks agrees with Commissioner Carney's suggestion to submit a plan on how they propose to prevent debris from falling into the ocean.

Agent Perks recommended sending this application to Nitsch for peer review because of the proximity to the shipping lane and would like another opinion on the layout and to take a look at the pile supported platform over rip rap

Commissioner Carney made a motion to send to Nitsch Engineering for peer review. 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.

All in favor. Motion carries.

Commissioner Carney made a motion to send to continue. 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.

All in favor. Motion carries.

## **NEW BUSINESS CONTINUED:**

### **1. Agent Updates/General Correspondence**

#### **WATERPARK**

Agent Perks advised that he received a letter dated 9/13/21 from Parks, Beaches and Recreation stating that at this time they have not received confirmation on whether or not the City plans to issue a request for proposal from vendors for the water park for Summer 2022. We will not make a determination on existing anchors action at this time and will notify the Commissioners.

Agent Perks stated that no action will be taken at this time until City puts together a plan of what will happen in 2022.

Commissioner Carney inquired what can be done if they decide to do nothing. Agent Perks replied that because Parks is the applicant it's a City entity that is responsible for these anchors. To excavate those will be devastating to the localized area and cutting them in place would be the most sensible thing to do. Agent Perks stated that he personally feels that we should just wait



a little longer to give Administration more time to deal with the vendor and doesn't feel they should be excavated.

Vice-Chairman Blanchard inquired whether a letter should be sent to Parks, Beaches and Recreation. Commissioner Carney agrees with affording them some more time but doesn't feel the Commission can just fold over. Perks legally the anchors are allowed to be there because the Order of Conditions doesn't expire until July 2022.

### **1479 MORTON AVENUE**

Agent Perks advised that Mr. Marc Frey of 1479 Morton Avenue has requested in writing to remove the existing retaining wall that sits approximately 15' back from water retaining wall, this would entail removing the existing block wall and reinstalling a new retaining wall to help address future runoff issues and would like to replace the stairs and remove the fill. Agent Perks went on site and they have a coastal bank/retaining wall and inquired whether the Commission would like him to file an NOI or RDA. The Commissioners agreed that an NOI should be filed.

### **A-1 ASPHALT**

Agent Perks advised that Attorney Crotty contacted and stated that they will be done with the project in early October, and they will have a site plan and site meeting in October. Vice-Chairman Blanchard would like to join the Agent at that meeting.

## **ADJOURN**

Commissioner Carney made a motion to adjourn at approximately 7:47. 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.

Respectfully submitted,

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Sandy Douglas, Administrative Coordinator

