



**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 3, 2021**

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

**Members Absent**

**Peter Blanchard**

**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, Commissioner Sean Carney, Commissioner Kimberly Rioux.

**GENERAL PROCUEDES FOR HEARING**

Chairman Audette read General Procedure for Hearings for the record.

**OLD BUSINESS:**

**NONE.**

**Commissioner Carney made a motion to take New Hearing #1 out of order as was requested by a constituent. Motion was seconded by Commissioner Rioux.**

**Roll Call Vote:**



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

**Commissioner Sean Carney-Vote in favor.**  
**Commissioner Kimberly Rioux-Vote in favor.**  
**Chairman Dennis Audette- Vote in favor.**

## **NEW BUSINESS:**

- 1. A Request for Determination of Applicability as filed by Jonah Mikutowicz for property identified as 1 Fish Island (Map 60, Lot 10).** The applicant is proposing to demo an unused former gas station building that is within 100' of wetlands. Representative is Mark Timmerman of AGM Marine Contractors, Inc.

Mr. Jonah Mikutowicz of AGM Marine Contractors was present and advised that they are proposing to demolish the gas station that is located off of Route 6, Fish Island on the south side. The gas tanks have all been previously removed, approximately five years ago.

Chairman Audette inquired as to how they are proposing to protect the debris from going into the water. Mr. Mikutowicz replied that they have proposed erosion controls, shown on the plan.

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

Agent Perks advised that he has been on site and there are large retaining wall blocks that surround site, asbestos abatement certificate has been submitted and recommended that erosion controls be inspected by him prior to construction and erosion controls be added at entrance and recommended a negative determination of box 3.

Chairman Audette added that a revised set of plans needs to be submitted and that the applicant notify the Agent prior to work commencing.

Commissioner Carney made a motion to issue a negative determination box #3. Motion was seconded by Kimberly Rioux.

Roll Call Vote:

Commissioner Sean Carney-Vote in favor.  
Commissioner Kimberly Rioux – Vote in favor.  
Chairman Dennis Audette- Vote in favor.

- 2. A Request for Determination of Applicability as filed by David Amaral for property identified as 652 West Rodney French Boulevard, (Map 5, Lot 96).** The applicant is proposing to construct an addition and make improvements to the existing garage. Representative is David Amaral.



Mr. David Amaral was present and stated that he remodeled his home approximately three years ago and are now looking to finish the garage as the wall on the right side is not structurally safe.

Commissioner Carney inquired if they are demolishing the existing garage. Mr. Amaral replied that they are just extending the garage on the right side approximately 8 feet out. Commissioner Carney inquired what they would do with the dirt from the excavation. Mr. Amaral explained that the plan is to spread the dirt in the yard to level off the remaining portion of the yard. Commissioner Carney inquired if they are proposing erosion controls. Mr. Amaral replied that he is not sure what the contractor has proposed.

Chairman Audette stated that they are out of the 100' buffer zone and if they are only here as a courtesy?

Agent Perks replied that this RDA is procedural because the building straddles the AE Zone and the specific work to be done in the expansion is outside of the AE Zone and the excavation of this project could potentially pose a hazard in the AE Zone that's why an RDA was requested.

Chairman Audette recommended that they install temporary erosion controls.

Agent Perks agreed with the installation of the erosion controls (6" straw waddles) and that he be notified when they have been installed so he can come to inspect them prior to work commencing. Agent Perks recommended the issuance of a negative determination.

Commissioner Carney made a motion to issue a negative determination box. Motion was seconded by Kimberly Rioux.

Roll Call Vote:

Commissioner Sean Carney-Vote in favor.

Commissioner Kimberly Rioux – Vote in favor.

Chairman Dennis Audette- Vote in favor.

## **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) - 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**

Commissioner Carney made a motion to continue to 8/17/21. Motion was seconded by Kimberly Rioux.

Roll Call Vote:

Commissioner Sean Carney-Vote in favor.

Commissioner Kimberly Rioux – Vote in favor.

Chairman Dennis Audette- Vote in favor.

- 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) - 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 8/17/21. Motion was seconded by Kimberly Rioux.

Roll Call Vote:

Commissioner Sean Carney-Vote in favor.

Commissioner Kimberly Rioux – Vote in favor.

Chairman Dennis Audette- Vote in favor.

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

Commissioner Carney made a motion to continue to 8/17/21. Motion was seconded by Kimberly Rioux.

Roll Call Vote:

Commissioner Sean Carney-Vote in favor.



Commissioner Kimberly Rioux – Vote in favor.  
Chairman Dennis Audette- Vote in favor.

4. **SE49-0874** – (Continued from 7/6/21, 7/20/21) **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.

Commissioner Carney made a motion to continue to 8/17/21. Motion was seconded by Kimberly Rioux.

Roll Call Vote:

Commissioner Sean Carney-Vote in favor.  
Commissioner Kimberly Rioux – Vote in favor.  
Chairman Dennis Audette- Vote in favor.

## **NEW HEARINGS:**

1. **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.

Miles Sundermeyer, Ph.D., was present and advised that he is a Professors and works for The University of Mass Dartmouth at the School for Marine Science and Technology at 706 south Rodney French Blvd. They are an off-campus laboratory for UMass Dartmouth and the lead marine science campus for mass system. They have two locations, one at Clark's Cove and SMAST East and conduct basic science research.

This project is a research project that Professor Steve Lohrenze was awarded by from the Office of Naval Research as part of science project. The project is to understand the effects radio waves and light as it travels close to sea surface and air. They can make wind measurements at high resolution and direct optical measurements to understand the behavior of turbulent layer in the air above sea surface. Opportunity to make those measurements directly above the sea surface is what makes this project unique. The research project is a three-year project that started last December and taken long to go through tower and project design. One of the locations of for the meteorological observation towers is at the treatment plant at the end of Clark's Cove on the elevated concrete 290' pier which is 8 feet off mean sea level and it's on pilings with a concrete deck. The second location is at the jetty at the New Bedford Community Boating Center on



Padanaram Avenue. As part of their facility, they have an existing stone jetty that they purchased in 2000 and in 2004 they renovated that stone jetty and added some docks, it's an existing structure concrete slab.

The two towers are on an existing permitted concrete structure and existing pier and jetty and not proposing to add any new coastal structures. They are proposing to bolt the aluminum tower to existing coastal structure towers have minimum footprint, lattice aluminum towers with 2' separation between vertical uprights. The towers will be bolted down to existing concrete structures on a baring plate and the plate is 12 s.f. and will sit on grout pad. The towers are designed for 24/7 operation. For both esthetics and safety, the towers have been designed that tower base bolts to concrete and has hand crank winch so tower can be folded down flat on deck when not in use and in bad weather. Project is due to end in December 2023. The towers can be removed and returned to original conditions. The SMAST pier already has electrical and internet on pier. The Boating center they will be using their WIFI connection to buildings and solar. Security fencing is also proposed for the towers.

They have filed with Chapter 91, DEP, and Division of Marine Fisheries and Wildlife.

Mr. Sundermeyer went through the design plans of the towers at each location.

Mr. Sundermeyer stated that they considered an alternative for the SMAST site but there is no good alternative it's an ideal location, it's the research location and it's been there for over 20 years and they conduct research with fishing fleet in NB and are working with the City and there is already an existing pier so do not have to build anything. There is no other viable alternative for SMAST site.

At the Boating Center site there have been some discussions with neighbors and Community Boating and there is another parcel to the North of the boating center near the hurricane center suggested by the Coles. But looking at that site, there is not a whole lot of space there, there is trees, fencing and hurricane barrier which would be a wind obstruction. There is no clear wind coming off the water at that location, scientifically it's not a viable place to put the tower. Would not be able to get the data that they need to collect by putting it there.

Another alternative that was discussed was to put (if couldn't put it on boating center jetty which is the preferred site) is in their boat pen up on the shore, still use same tower but would have to dig a foundation for it, it's not preferred but open to discussion.

Commissioner Carney inquired if there is any excavation proposed with current design. Mr. Sundermeyer replied no. Commissioner Carney inquired in case of severe weather or severe tidal events if the only alternative is to lay the tower down? Mr. Sundermeyer replied that the tower could actually be removed and brought to shore if needed but the preferred way is to lay it down, take sensors off. Commissioner Carney inquired if during construction phase what is proposed to protect the ocean resources. Dr. Sundermeyer replied that they do not yet have a contractor for the project, but the design of the anchor points is drilling through concrete slabs and putting in stubs, both locations have access via disturbed resources that you can drive a truck or small vehicle at point locations. At the SEMAST pier they will use a raft or boat to do the underside work and will collect the concrete dust.



Chairman Audette advised that the applicant will need to submit a construction plan to include how they will protect the ocean resources. Chairman Audette inquired when they fold tower at SMAST if the tower will go off side of rail once folded. Mr. Sundermeyer replied that it goes a little bit off the rail approximately 10'. Chairman Audette requested that he needed to show how that tower will be removed or strapped down for the rail to hold it in place. Chairman Audette inquired if the tower will be sending info via radio waves. Mr. Sundermeyer replied that are just gathering information.

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

Kreg Espinola of 47 Seventh Street, NB, and 1626 Padanaram Avenue, inquired if there will be an additional comment period for the public since it's being continued so he will reserve his objections until the next hearing and if the petitioner will have to petition the board with an alternative and what's the appeal period. Agent Perks replied that the Commissioners will vote on project and then there is a ten-day appeal period, and an appeal would have to be filed directly with DEP for Superseding Order. The project would then be placed on hold until there is a decision made. Mr. Espinola inquired as to the time period to get superseding order? Agent Perks replied that he is not sure. Mr. Espinola advised that he is a City Attorney but not acting at that capacity at the moment.

Nancy and Bill Cole of 1622 Padanaram Avenue were also present but will reserve their comments until the next meeting.

No comments were heard in favor of this project.

David Fredette of 912 Bristol Street, NB was present and just inquired if Dr. Sundermeyer was concerned about bird nesting on top of the tower. Dr. Sundermeyer replied that it would disrupt their measurements and what they do with other devices is they have pigeon spikes or zip ties and would be mindful of it but doesn't think it's big enough for an osprey to nest.

Mr. Steven Lohrenz of 44 Indian cove Road, Marion, MA was present and stated that he is a co-investigator of this project but feels that this project has a lot of benefits to show students how measurements are made and how they can understand weather and wind dynamics and thinks that the locations have made every effort to minimize the impacts.

Chairman Audette suggested they think about the birds nesting in the tower and how it will be prevented.

Agent Perks does not have concerns with regard to birds on the structure because it's quite small but inquired as to what they would do if an osprey lands on that platform because his understanding is you cannot touch it and maybe to have a contingency plan for this. Along with the process for installation especially the SMAST pier for collecting stone dust and make sure there is no loose material during construction and a plan in place for inclement weather and how will get latched down to handrail and if there is another consideration for sturdiness' sake. Will





also need a contingency plan if something happens, and you have to get the tower out of the water. They are also waiting to hear from Chapter 91 and natural Heritage at this point.

Agent Perks inquired if they received any feedback from the building department. Mr. Sundermeyer replied that received an email from Jim Berube saying that he is looking for guidance from the Solicitor's Office and SMAST and that the site may need to be permitted with the state. The follow-up email today from Building Commissioner Danny Romanowicz states that they do not have jurisdiction over SMAST project. Agent Perks stated that they are waiting to hear from Chapter 91 if they may need a letter of support from Community Boating or they may need them as a co-applicant.

Commissioner Carney made a motion to continue to 8/17/21. Motion was seconded by Kimberly Rioux.

Roll Call Vote:

Commissioner Sean Carney-Vote in favor.

Commissioner Kimberly Rioux – Vote in favor.

Chairman Dennis Audette- Vote in favor.

## **NEW BUSINESS CONTINUED:**

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

#### **SE49-0797- REQUEST FOR EXTENSION**

Mr. David Fredette was present on behalf of the City of New Bedford and advised that the NOI was filed by DPI back in 2018 and has since expired and there was a delay in getting the project started and work got finished in Tarkiln Hill area and received a partial Certificate of Compliance but needed to do mitigation area and that was planted in 2020 and it failed so JW White just finished redoing that and it's his understanding that it's another three years that this has to continue to be monitored and this is why he is requesting an extension.

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

Commissioner Carney made a motion to extend the Order of Conditions for SE49-0797. Motion was seconded by Kimberly Rioux.

Roll Call Vote:

Commissioner Sean Carney-Vote in favor.

Commissioner Kimberly Rioux – Vote in favor.

Chairman Dennis Audette- Vote in favor.

#### **AEROVOX PROJECT**





Marilyn Wade of Brown and Caldwell was present to request a minor modification to an existing order.

Ms. Wade requested a minor modification to the existing Order of Conditions to change the original elevation that was proposed.

The Commission accepted her request as a minor modification and they do not have to do a full NOI.

## **2. Meeting Minutes of July 6, 2021 for approval.**

Commissioner Carney made a motion to approve the meeting minutes of 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.  
Chairman Dennis Audette- Vote in favor.

## **ADJOURN**

Commissioner Carney made a motion to adjourn at approximately 7:20. 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,

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Sandy Douglas, Administrative Coordinator

