



# Conservation Commission

May 6, 2014 – 6:30 PM – **Minutes**  
City Hall, 133 William Street, Ashley Room

## Members Present

Craig Dixon  
Paul Pacheco  
Dennis Audette

## Members Absent

Kenneth Motta  
John R. Radcliffe

## Staff Present

Agent Sarah Porter

Commissioner Dixon called the meeting to order at 6:30 p.m.

## HEARINGS:

1. **(Continued from 10/7/13, 10/22/13, 11/12/13, 11/26/13, 12/10/13, 1/7/14, 2/8/14, 2/19/14, 3/4/14, 3/19/14, 4/1/14 & 4/25/14) - A Request for Determination of Applicability as filed by Ron Labelle, City of New Bedford Commissioner of Public Infrastructure for property identified as 1350, 1296, 1232, 1216, 1182 & 1174 Sassaquin Avenue, New Bedford (Map 138, Lots 445, 81, 67, 69, 60, 392, and 191) and the Swallow Street and Sassaquin Avenue Rights of Way. Applicant proposes to upgrade the storm water management system in the Buffer Zone. Representative is David Fredette of the Department of Public Infrastructure. CONTINUED**
2. **SE49-597 – (Continued from 1/7/14, 2/8/14, 3/4/14, 3/19/14, 4/1/14 & 4/25/14) - A Request for Certificate of Compliance as filed by Ana M. Reis, Trustee of Bismark Meadows Realty Trust for property identified as Bismark Street (Bismark Meadows Road), (Map 136, Lot 131). Representative is Edwin H. Gless of Existing Grade, Inc. CONTINUED**
3. **SE49-699 (Continued from 4/1/14 & 4/25/14) - A Notice of Intent as filed by Claremont Companies for property located on Downey Street (Map 123, Lot 3). The applicant seeks to construct an airplane hangar building along with 12 paved parking spaces, utilities, landscaping and stormwater management. Representative is Christian Farland of Thompson Farland, Inc. CONTINUED**
4. **SE 49-700 - (Continued from 4/25/14) - A Notice of Intent as filed by Phil and Debbie Rose of Remax Classic for property identified as the west side of Maddie Drive (Map 136, Lot 501). Applicant proposes to construct a single family dwelling in the Buffer Zone to Bordering Vegetated Wetlands. Representative is Seth Dufort of Outback Engineering, Inc.**

Mr. Nyle Zager of Outback Engineering was present on behalf of the applicants. Mr. Zager advised that the applicants are proposing to construct a single family home in the buffer zone on Maddie Drive. This is the last lot in the subdivision to be constructed. Mr. Zager advised that the only work they are looking to do within the 25' buffer is clearing of trees and grading. They have come up with the smallest footprint for the house and driveway as possible. There is a detention basin to the south of the property that is already constructed. They have roof drains in the rear of the property that will take on all of the roof recharge as required under the original subdivision approval. There is a trench drain in the rear of the property that was originally done by DPI back in 2011. Mr. Zager stated that all sufficient information has been submitted and is happy to answer any questions.

Commissioner Audette inquired of Mr. Zager if there has been any biological study done on said property since there hasn't been any work done to it. Mr. Zager replied that the Environmental Report has been submitted and they have been to the site to reflag the area. Agent Porter stated that she doesn't agree with the wetland flags that are out there. The wetland boundary that was out there in 2010 has expired. Agent Porter checked with DEP so it is an expired wetland boundary. And now will require new wetland data sheets to look at the wetland boundary because there are some wetland plants growing. Wetland flags 3, 4, and 5 - 6R need to be looked at again with respect to wetland data sheets.

Commissioner Audette inquired as to how much fill is intended to be placed in the front of the lot since said lot sits approximately 8' below grade. Mr. Zager replied that there will be sufficient fill brought in to grade it properly.

Commissioner Audette also inquired as to what their plan is to stop the draining from going back into the wetlands. Mr. Zager explained how that would be done and stated that this has been taken care of when the original drainage for the houses was done.

Commissioner Audette stated that this whole subdivision has been a nightmare for this Commission and have to make sure that everything is done right to the "T". Commissioner Audette also inquired whether they are proposing a retaining wall as they grade to the back or if it's just going to be a slow grade. Mr. Zager replied that there will not be a retaining wall and that's why DPI required a trench drain.

Commissioner Audette added that property still drains into the school yard during torrential rain. Mr. Zager replied that happens during the existing conditions and they are not changing anything and are taking away impervious area. And that they are doing the best they can to mitigate any drainage issues that may come and are very comfortable with what they have provided and it is more than sufficient not to cause any additional issue that is already out there.

Agent Porter stated that they have left a 10' no disturb zone of forested upland buffer but they have disturbed the other areas because it's a tight squeeze in there and would require a split rail fence along that hay bale and silt fence line.

The Commission agreed to continue this matter in order to revise the wetland boundary on site.

Commissioner Pacheco made a motion to continue. Motion was seconded by Commissioner Audette. All in favor. Motion carries.

**5. A Request for Determination of Applicability as filed by David Glicksman for property identified as 1550 Padanaram Avenue (Map 17A, Lot 124).** Applicant proposes to construct a garage addition in the Coastal Velocity Zone of the Floodplain and the Buffer Zone. Representative is David Glicksman.

Agent Porter advised that this application is for a garage addition.

Mr. David Glicksman was present and stated that he is proposing a 6' addition to his existing garage.

Agent Porter advised that this project is in the coastal velocity zone and they are in the outer buffer zone to the coastal beaches so they are greater than 50' away. And that Mr. Glicksman submitted a stamped plan.

Commissioner Audette inquired whether Agent Porter had conducted a site visit. She replied that she did look at this project and it is a straight forward plan. There is construction in the buffer zone but it is away from all of the features that are in the front of the house next to the street rather than behind the house which is on the seaward side.

Agent Porter recommended that there be a condition for a haybale line to be placed along the property boundary. Mr. Glicksman agreed.

Agent Porter stated that this is a straight forward project and provided that the haybale line across the back don't have to worry about any impacts to the coastal resources.

Agent Porter recommended the issuance of a Negative Determination that the work is within the resource area that being coastal flood plain within the buffer zone but shall not alter the resource any of the resource areas provided all work is done in accordance with the State Building Code for construction in the velocity zone. Recommended that a line of haybales be installed in the southwest corner of the existing garage southerly to the property line.

Commissioner Dixon inquired whether there was anyone present who wished to comment on this matter.

Ms. Judith McMullen was present and stated that she was present to speak for one of the abutter's Patrick Conlon who resides across the street. Ms. McMullen advised that Mr. Conlon could not be present this evening and he wanted to know the difference between an RDA and an NOI. Agent Porter replied that the RDA is a short form to determine whether or not they need to file a NOI and a NOI is when you are in the resource area and doing work in the resource areas. Ms. McMullen inquired if Mr. Glicksman's property was considered a dune. Agent Porter replied that according to DEP there is a dune in the back. Ms. McMullen inquired whether the architect was including the city sidewalk in Mr. Glicksman's frontage. Agent Porter replied that this Commission is looking at the Wetlands Protection Act and if it has to do with the street sidewalk it would be before the Zoning Board.

Commissioner Audette explained to Ms. McMullen that if she wants to dispute his landline and land she is going to have to go before the Zoning Board. Commissioner Audette also advised that this Commission has to go by the stamped plan that is before this Commission.

Ms. McMullen added that she knows this is not part of Conservation but when they did the property as an Industrial B, 50% of this property is covered by the building on the sidelines. There is pea stone that drains into a stonewall and erodes the property next door. This addition is going to add to this. The pea stone on the side of the building was supposed to have a buffer has no buffer. And wondered how this will be corrected. Commissioner Dixon stated as Ms. McMullen mentioned from the beginning this has nothing to do with this Commission and this matter will have to go before the Building Department

Mr. Antone Amaral of 1539 Padanaram Avenue was present. Commissioner Audette inquired whether his comments will have anything to do with past issues. Mr. Amaral stated that it will. Commissioner Audette reminded Mr. Amaral that this Commission can only act upon what is before them today. Anything having to do with the abutters' right of way has nothing to do with this Commission. Mr. Amaral stated that Mr. Glicksman is over the line and is in the street. Commissioner Audette explained that this Commission does not determine the plot and lot. Mr. Amaral added that in all the maps this lot line is straight and Section 9209 says "a street line, dividing line between the street and the lot". Mr. Amaral suggested that this petition be disqualified or postponed.

Councilor Joseph Lopes was present and stated that he is favor of Mr. Glicksman's project and is building this addition on his property that he has owned for years and that Mr. Glicksman and his wife are trying to make improvements to the home and neighborhood.

Agent Porter recommended a negative determination that the work is within coastal floodplain within the buffer zone and shall not alter any resource areas provided all work is done in accordance with the State Building Code of Construction in the velocity zone. Agent also recommended that a line of haybales be installed from

the southwest corner of the existing garage, southerly to the property line. The plan for approval is Platform Extension Sheet A1 dated 12/9/09.

Commissioner Pacheco made a motion to approve as recommended by the Agent. Motion was seconded by Commissioner Audette. All in favor. Motion carries.

6. **SE49-701 - A Notice of Intent as filed by Agostinho and Michele Pinto for property located on Monterey Street (Map 132I, Lot 22).** Applicant proposed to construct a single family dwelling within the Buffer Zone to a Bordering Vegetated Wetland. Representative if Kenneth Ferreira of Ferreira Engineering.

Mr. Kenneth Ferreira of Ferreira Engineering was present on behalf of the applicants and advised that they are looking to construct a single family home on Monterey Street. There is an existing home across the street and used the wetland flags from that home's NOI. The new home will be connected to City sewerage, water and natural gas. His consultant flagged the remaining wetlands that were offsite. Using infiltrators to capture all the roof water and to minimize grading in the back side will have loose boulder stonewall. There is a vegetated swale that carries the water into the wetlands. Mr. Ferreira added that this is a pretty straight forward project.

Agent Porter stated that she does agree with the wetland boundary. Agent Porter added that it is a grassy field in the back and it's not an undisturbed buffer zone, it's basically a mowed lawn. Agent Porter recommended that there be a note on the plans that work operations on the lot shall not interrupt natural flow of water or create ponding of water on any adjacent lots and also that a split rail fence be installed along the haybale silt fence barrier and the fence would offset the wetland flag #2. Agent Porter recommended that a revised plan be filed reflecting said recommendations. Agent Porter also recommended that at the time of land transfer the owner or any successor shall require the buyer to sign an acknowledgement that they have read and understand condition #50 and understand that said condition is posted on the split rail fence stating "A Protected Conservation Area Sits Beyond this Fence Is to Remain Undisturbed by Order of the Conservation Commission". There will be 2 signs posted. And that said notarized original acknowledgement shall be filed with the Commission.

The Commission suggested that Mr. Ferreira filed his revised plans within 48 hours.

Commissioner Pacheco made a motion to approve as recommended by the Agent with all suggested conditions. Motion was seconded by Commissioner Audette. All in favor. Motion carries.

## **OTHER BUSINESS:**

### **1. Agent updates (Flora B. Peirce Trail Grant \$782.60)**

Agent Porter advised that there is a balance in the Flora B. Peirce Trail in the amount of \$782.60 and needs a motion to approve spending this remaining balance in Fund #2107 from now until the end of the calendar year 2015.

Commissioner Audette made a motion to approve the spending of the \$782.60 from now until the end of 2015. Motion was seconded by Commissioner Pacheco. All in favor. Motion carries.

### **2. General Correspondence**

## **STRATFORD/ELLIOT STREETS**

Agent Porter advised that she received a call from a neighbor from Stratford/Elliot Street area. This area has a lot of flooding problems. Agent Porter that everything is flooded because the water table is so high and there is a clogged pipe that is not draining. Agent Porter notified DPI, which they were already aware of. This matter

will fall under an Emergency Certification once she hears back from DPI. Agent Porter wanted to advise the Commission of the extensive flooding problem there and is flooding people's backyards and garages.

### **COLBY VILLAGE**

Commissioner Audette stated that he visited Lot #3 at Colby Village and it's at least 1' above the grade and it's pitched away from the detention pond and so it drains into neighbor's yard. Agent Porter stated that she has spoken with the Chairman with regard to this matter and he suggested that if the Cusaks would like to submit photographs showing the drainage onto their land then we can send a letter. Agent Porter advised that the developer will have to submit as as-built before signing off on a CO.

### **NEW BEDFORD AIRPORT**

Agent Porter advised that the Airport had a problem with the erosion control installation. They are up to Phase 4 of the expansion. The erosion control contractor went in the riverfront area, where it had all been replanted and restored, and ripped out all the plantings and put in erosion controls where the plantings were. So they had to go back out and replant all the shrubs and reseed. Agent Porter stated that they have enough wetland specialists on site that should have prevented this from happening. Agent Porter will visit the site once a week.

A motion to adjourn was made by Commissioner Audette. Motion was seconded by Commissioner Pacheco. All in favor. Motion carries.

Respectfully submitted,

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Sandy Douglas  
Administrative Specialist