

CITY OF BEVERLY  
PUBLIC MEETING MINUTES

BOARD OR COMMISSION: City of Beverly Conservation Commission  
SUBCOMMITTEE:  
DATE: April 4, 2023  
LOCATION: Virtual via Google Meet  
MEMBERS PRESENT: Chair Christine Bertoni, Vice Chair Robert Buchsbaum, Amber Redmond  
MEMBERS ABSENT: William Squibb  
OTHERS PRESENT: Director of Planning & Development Darlene Wynne, Conservation Agent David Spidaliere, Bob Beckerlegge of 48 Paine Avenue, John Cabot of 42 Paine Avenue  
RECORDER: Naomi Moca

---

1. Chair Bertoni calls the meeting to order at 7:02 p.m. and reads the public notice regarding holding meetings remotely due to COVID-19.

Redmond: Motion to recess. Buchsbaum seconds. Chair Bertoni takes a roll call vote. Motion carries (3-0).

2. **Recess for Public Hearings**

3. **Notices of Intent/Abbreviated Notices of Intent/Requests for Amended Orders of Conditions**

- a. **Cont: 34 South Terrace, DEP File #5-1389** – construct a fixed pier with associated gangway, floating dock, and stairs – Virginia Wallace

Bob Griffin of Griffin Engineering is present on behalf of the applicant. Griffin states that the applicant is requesting a continuation, and additionally is proposing that the Commission consider issuing an enforcement order for the adjacent properties (32 South Terrace and 36R South Terrace) to remove debris along the shoreline from fallen piers.

The Commission discusses the damage on the property observed at the site visit from a storm in December of 2022. The Commission discusses that it is necessary to establish what, if any, violation there is in order to issue an Enforcement Order. Spidaliere states that in his research into the filings, there was a Chapter 91 license issued for 36R South Terrace, but that there was nothing in the Conservation Commission files for 32 South Terrace. The Commission discusses that there is a lack of information needed to issue an Enforcement Order, and a Violation may be more appropriate.

Griffin states that the Division Marine Fisheries (DMF) letter was received on March 14, 2023, and the applicant has agreed to raise the floats and use skids instead of stones as recommended. Griffin explains why the DMF recommendation to replace the piling is impractical and states that he still plans to install a concrete support pinned to the ledge.

Redmond: Motion to continue the hearing to the May 16, 2023 meeting. Buchsbaum seconds. Chair Bertoni takes a roll call vote. Motion carries (3-0).

- b. **Cont.: 140 Livingstone Avenue, DEP File #5-1388** – demolish and reconstruct a single-family residence, install an in-ground pool and patio, pool house, driveway, utilities, storm water management features and landscaping – 140 Livingstone, LLC c/o Edward Doherty

Bob Griffin of Griffin Engineering, Landscape Architect Natalie Adams of Verdant Landscape Architecture, and the applicant are present. Griffin presents the site plan dated March 30, 2023. Griffin states that a tree-by-tree review was conducted and that multiple trees will need to be removed, including some Norway Maples. The plan includes an updated phragmites management plan over the course of two years, with yearly maintenance thereafter, found on Sheet C2 of the plan. Griffin states that the proposed number of tree plantings as part of the landscaping plan is now about 50.

The Commission discusses the ambitious landscaping plan, and that future reporting on the survivorship of the plants may be appropriate.

The Commission discusses riverfront regulations that address the criteria for re-development of the lot. The Commission discusses that there may be less than 10% of the riverfront or 5,000 square feet, whichever is greater, of alteration to the riverfront area. Griffin and the Commissioners agree that he will provide a memo clarifying the calculations of the square footage.

Redmond: Motion to continue the hearing to the April 25, 2023 meeting. Buchsbaum seconds. Chair Bertoni takes a roll call vote. Motion carries (3-0).

- c. **New: 20 Bayview Avenue, DEP File # 5-1391**— contaminated soil remediation – United States Coast Guard – Civil Engineering Unit Providence c/o Jason Hagerty

Spidaliere reads the legal notice. Kelly Giles of Renova Environmental Services is present. Giles states that the project entails removing lead-contaminated soil resulting from the historical use of lead-based paints from the Hospital Point Coast Guard property.

The Commission discusses that the entire property was tested for contamination, that the duration of the project will be approximately six weeks, that there will be no blasting in the case of hitting ledge, that the oil house is not part of the remediation project, the precautions in place while removing the soils, and the process for excavation and backfilling. Giles agrees to provide the site investigation report and the erosion control protocols to the Conservation Agent.

Redmond: Motion to close the hearing. Buchsbaum seconds. Chair Bertoni takes a roll call vote. Motion carries (3-0).

- d. **New: 68 Paine Avenue, DEP File #5-1390** – repair a seawall – Christopher Velonis

Spidaliere reads the legal notice. Christopher Velonis, applicant, and John Allen, Project Engineer of H.B. Fleming are present. Velonis expresses concern about the safety of his home and expresses gratitude for Spidaliere's help in this process. Velonis states that a December 2022 storm damaged the property's seawall and shares a video of a typical storm, seen from the vantage point of his home. Velonis shares photos of the collapsed seawall and states that there is a Chapter 91 license from 1995 for a series of two seawalls, one in front of the other, with riprap in front of the revetement. Velonis presents the proposed project, which includes reconstructing the walls to match the height of the neighboring walls, connecting into the neighboring walls (which would require closing in the public right-of-way between the properties), and installing gabion mattresses.

The Commission discusses the right-of-way and beach access, amending the Chapter 91 license, and the maintenance work done on the seawall in the years prior to the damage. The Commission discusses researching the guidelines because the resource area of concern is Coastal Bank, Priority Habitat for Piping Plover, and shore bird habitat.

Bob Beckerlegge of 48 Paine Avenue expresses his desire to keep the right-of-way to the beach open. John Cabot of 42 Paine Avenue also expresses concern that the households that have right-of-way access to the beach be able to maintain that right.

A site visit is scheduled for Saturday, April 22, 2023 at 9 a.m. Velonis agrees to allow members of the public to attend the site visit.

Buchsbaum: Motion to continue the hearing to the April 25, 2023 meeting. Redmond seconds. Chair Bertoni takes a roll call vote. Motion carries (3-0).

- e. **New: 451 Essex Street, DEP File # 5-1392** – construct a mixed-use commercial and residential development with associated paved parking lot, utilities, stormwater management system, and landscaping – Fazio Enterprises, Inc. c/o Nicholas Gabriel

Spidaliere reads the legal notice. Bob Griffin of Griffin Engineering, Nicholas Gabriel of Fazio Enterprises, and Miranda Siemasko of Glovsky and Glovsky are present. Griffin presents the Notice of Intent (NOI) for the project. The proposal is to build a mixed-use development and will require site plan review from the Planning Board. Griffin states that the project has already moved through the Parking and Traffic Commission and Design Review Board and has had one hearing before the Planning Board thus far. Griffin describes the project, including parking, storm water management, and the landscaping plan. Griffin states that the parking lot and driveway are outside the 50-foot No Build Zone.

The Commission discusses that around six feet of fill will be brought into the 50-foot No-Build Zone for grading purposes, that the corners of the building will be staked, the erosion controls, the irrigation system for the landscaping, the proposed mitigation, and the proposed grade changes.

Spidaliere shares a written comment by Robert Omaley of 3 Thoreau Circle expressing concern about stormwater flow being affected by the project. Wynne explains that the Engineering Department reviews the storm water management report on behalf of DPS and states that she will ensure that Spidaliere receives the comments from Engineering.

A site visit is scheduled for Saturday, April 22, 2023 at 10 a.m. Per the property owner, Griffin agrees to allow members of the public to attend.

Buchsbaum: Motion to continue the hearing to the April 25, 2023 meeting. Redmond seconds. Chair Bertoni takes a roll call vote. Motion carries (3-0).

Redmond: Motion to reconvene the regular meeting. Buchsbaum seconds. Chair Bertoni takes a roll call vote. Motion carries (3-0).

#### **4. Reconvene Regular Meeting**

**5. Requests for Determination of Applicability**

- a. New: 36 Kennel Hill Drive** – remove an above ground pool, associated deck, and split rail fence – Brian Tuttle

Spidaliere reads the public notice. Brian Tuttle, applicant and property owner, is present and expresses gratitude for Spidaliere’s help in the process. Tuttle states that removing the above-ground pool will decrease impervious surface and return the property to its original state. Tuttle states that the pool will be removed piecemeal, and the deck and split rail fence will be dismantled and removed.

The Commission discusses the length of time for the pool removal being one day, the process for draining the pool, repurposing the pea stone, that no heavy equipment will be used, that Tuttle will place conservation markers, and that the underground supports for the decking will be removed.

The Commission discusses the following conditions:

1. Any dewatering from removal activities related to the pool shall be directed away from the wetland resource area on the upland side of the property.
2. Pool drawdown shall not occur within 2 weeks of chlorination or operation of the pool to allow dissipation of chlorine before pool water is released into the environment. Drawdown shall be directed over upland area to maximize infiltration. Drawdown shall not be directed to the wetland.
3. Any excavated materials/debris shall be removed and properly disposed of offsite.
4. Storage of construction materials and dumpster shall be located on existing paved areas or outside the resource areas.
5. Any area that is disturbed during construction is to be revegetated immediately, or as soon thereafter as the growing season commences, with appropriate local indigenous vegetation.

The Commission discusses the type and number of conservation markers.

Buchsbaum: Motion to issue Negative 3 determination, with the conditions discussed. Redmond seconds. Chair Bertoni takes a roll call vote. Motion carries (3-0).

- b. New: 116 Cross Lane** – construct a pedestrian bridge, trail expansion and update kiosks – City of Beverly, Planning Department c/o Darlene Wynne

Spidaliere reads the legal notice. Charlie Mann of the Open Space and Recreation Committee and Director of Planning and Development Darlene Wynne are present.

Mann presents the site plan for the pedestrian bridge that will cross the Mackerel River within the Sally Milligan trail system, and the design for the bridge. The Commission discusses the portion of the design that appears to cut into the bank. Mann agrees to provide a revised design and also agrees to a pre-construction site visit by the Agent.

A site visit is scheduled for Saturday, April 22, 2023 at 11 a.m.

Redmond: Motion to continue the hearing to the April 25, 2023 meeting. Buchsbaum seconds. Chair Bertoni takes a roll call vote. Motion carries (3-0).

**6. Old/New/Other Business**

**a. Minor Modifications to Orders of Condition**  
**i. New: 0 Dodge Street, DEP File #5-1381**

Charlie Mann of the Open Space and Recreation Committee and Director of Planning and Development Darlene Wynne are present. Mann states that the tree removal will be added as a minor modification in lieu of submitting a tree removal request independently. Wynne explains that the original Order of Conditions was granted without the review of the City Arborist and Iron Tree. Wynne suggests that the tree will need to be removed using heavy machinery instead of hand tools, and the remaining debris will be left in place for habitat.

The Commission discusses different ways, if any, to bring heavy machinery onto the site. Mann agrees to clarify what heavy machinery will be needed before the next meeting.

Buchsbaum: Motion to continue to the April 25, 2023 meeting. Redmond seconds. Chair Bertoni takes a roll call vote. Motion carries (3-0).

**b. Extension Requests**  
**i. New: 675E Hale Street, DEP File #5-1264**

Devon Morse, Project Wetland Scientist of Hancock Associates and Landscape Designer Laura Gibson are present to request an extension. Morse states that additional time is needed to complete state and federal permitting and that permitting has been delayed due to long review times by the state.

The Commission discusses the tolling period for COVID. The Commission clarifies that this extension is for the flapper valve in the existing tide gate, and not the pond mitigation.

Redmond: Motion to extend the OOC for one year under the local bylaws. Buchsbaum seconds. Chair Bertoni takes a roll call vote. Motion carries (3-0).

**c. Potential Violations, If Any**

**d. Tree Removal Requests, If Any**  
**i. Cont.: 10 Fieldstone Lane**

Lisa Ambrosino, co-owner of the property, is present. Ambrosino states that the other co-owner, her mother, is requesting to not be required to do any replacement plantings due to physical and financial hardship.

The Commission discusses alternatives to the original re-planting plan. Ambrosino agrees to consult with the Agent on appropriate native plantings.

**ii. New: 4 Emerson Circle**

Alexander Ziolkowski, applicant and property owner is present and states that three Red Oak trees need to be removed due to decay and proximity to his house. The Commission discusses re-planting with appropriate native plantings as a condition.

Buchsbaum: Motion to approve the tree removal request at 4 Emerson Circle. Redmond seconds. Chair Bertoni takes a roll call vote. Motion carries (3-0).

**e. Other: Discussion or Action Items Related to Commission Business, Correspondence, etc. Received/Issued After Publication of Agenda, If Any**

The Commission discusses the most appropriate way to address the damage to the piers at 32 and 36R South Terrace, such as composing a letter that requests a written response and/or the Agent conducting a site visit.

**f. Expenditure Approvals, If Any**

**i. New: Conservation Agent March Mileage Reimbursement**

Buchsbaum: Motion to approve the mileage reimbursement totaling \$15.33. Chair Bertoni seconds. Chair Bertoni takes a roll call vote. Motion carries (3-0).

**ii. Conservation Commission Vice Chair Massachusetts MACC Annual Conference Workshop Reimbursement**

Redmond: Motion to approve the materials reimbursement totaling \$30. Chair Bertoni seconds. Chair Bertoni takes a roll call vote. Motion carries (3-0).

**iii. Funding a Part-Time Field Assistant**

Wynne states that based on her research, a staff support position is a direct and allowable expense under the Wetlands Protection Act. Wynne estimates a part-time Field Assistant would earn around \$29,000/year and states that the accounts have the funding to fund the position for up to six years, including funding for yearly raises. Wynne states that there are several items to consider when evaluating the position, such as whether the City budget could eventually absorb the cost of the position, whether the position could eventually become a full-time role, regularly re-evaluating the position, and how the different accounts could possibly distribute the funding for the position's salary.

Spidaliere provided a memo and draft job description dated today, April 4, 2023. The Commission discusses whether some funding could come from the City to help fund the position.

**Other business:**

**a. Critter Crossing:**

The Commission discusses the two signs donated by DeRosa Environmental for the critter crossing at Cross Lane. Spidaliere agrees to reach out to DPS to install them.

**b. Pickleball courts in Birch Plains:**

The Commission discusses that the Birch Plains field is at least partially under the jurisdiction of the Conservation Commission. Wynne states that the Solicitor's Office is looking into the land swap and clarifies that the pickleball courts are going to be constructed outside the wetlands buffer zone.

**d. Orders of Conditions, If Any**

- a. **New: 20 Bayview Avenue, DEP File # 5-1391** – contaminated soil remediation – United States Coast Guard – Civil Engineering Unit Providence c/o Jason Hagerty

The Commission discusses the following conditions:

1. Sediment or other contaminants removed from the site shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.
2. Erosion and sedimentation control devices shall be installed along the edge of the down gradient side of the project area prior to excavation.
3. Erosion and sedimentation control devices shall be inspected daily during periods of active excavation. Sediments shall be removed from the barriers as soon as they reach a depth of 6-inches.
4. When mechanical equipment is being used, contractors shall keep hazardous material spill containment kits on-site in case of a release of oil, gasoline, or other toxic substances.
5. Storage of construction materials and dumpster, if used, shall be located on existing paved areas or outside the resource areas.
6. After excavation, disturbed soils are to be re-stabilized and re-vegetated as soon as possible and returned to pre-activity condition.
7. All excavation activities shall be conducted from the landward side of the top of the coastal bank. No heavy equipment, vehicles or fill are allowed seaward of the limit of work area shown on the plan of record.
8. Prior to excavation, a copy of the contamination report shall be sent to the Conservation Agent.
9. Prior to excavation, a copy of the remediation and erosion control protocols shall be sent to the Conservation Agent.

Buchsbaum: Motion to issue Order of Conditions under the Wetlands Protection Act and the local bylaw for 20 Bayview Avenue DEP File # 5-1391 as discussed. Redmond seconds. Chair Bertoni takes a roll call vote. Motion carries (3-0).

**e. Approval of Minutes**

**i. March 14, 2023**

Members review and offer edits to the March 14, 2023 draft meeting minutes.

Buchsbaum: Motion to accept the March 14, 2023 meeting minutes as written. Redmond seconds. Chair Bertoni takes a roll call vote. Motion carries (3-0).

**f. Adjournment**

Redmond: Motion to adjourn. Buchsbaum seconds. Chair Bertoni takes a roll call vote. Motion carries (3-0).

**Meeting adjourns at 10:50 p.m.**

The next regular meeting of the Conservation Commission is scheduled for Tuesday, April 25, 2023.