

**Hampton Conservation Commission
Draft Meeting
Minutes Tuesday, July 26th, 2022**

I. Call to Order: 7:00 pm

Deborah Wrobel, Chair
Pete Tilton
Sharon Raymond
Casey Whalen
Rayann Dionne
Marc Hiller
Robert Fox, *arrive at 7:08 PM*

Staff Present:

Brianna O'Brien, Conservation Coordinator

II. Review Minutes (7:00 PM)

1. June 28, 2022

Mr. Hiller MOTIONED to approve the June 28 minutes. SECONDED by Mr. Whalen. Vote: 4-0-2. Ms. Raymond and Ms. Dionne abstained.

III. Applications (7:01 PM)

1. 1062 Ocean Blvd. - Town Wetlands Permit

Applicant: Andrea R. Checovich Revocable Trust
Agent: Sergio Bonilla, Mission Wetlands
Property Owner: Andrea R. Checovich Revocable Trust

The applicant is proposing to demolish the two existing dwellings, both are located in the Protected Shoreland. The oceanfront dwelling is located within the previously developed upland Tidal Buffer Zone (TBZ). The footprints will be slightly different than the existing ones. Mitigation is also proposed.

Mr. Bonilla, along with Ms. and Mr. Checovich attended the meeting.

Mr. Bonilla spoke for the application:

- This project proposes an 11% reduction of impervious area in the 50 foot buffer.
- The structure will be pulled entirely out of the waterfront buffer.
- 885 Sq Ft will be within the town buffer.
- Plantings in the back will be outside of the 50 foot buffer.
- The notes that Mr. Whalen gave regarding the application in a previous meeting have been addressed.

Mr. Fox joined the meeting (7:08 PM).

Ms. Dionne

- Asked about how the highest observable tideline cited in the plan was determined. Mr. Bonilla confirmed that they have gotten multiple observations to confirm it.

Public comment closed at 7:06 PM.

Mr. Whalen MOTINED to recommend the Town Wetlands Permit. SECONDED by Mr. Hiller.
Vote: 6-0-1. Mr. Fox Abstained.

Standard Stipulations:

1. Install two Wetlands Conservation District markers at the wetland buffer edge along either side of the structure. The markers must be permanently affixed to a structure such as a dwelling, fence or a post cemented into the ground. Wetland markers can be purchased at the Hampton Planning Office.
2. Permeable hardscapes shall be maintained as permeable. Driveway work requires a permit from Hampton Department of Public Works.
3. The application of fertilizer, pesticides, insecticides, or herbicides is prohibited in any tidal or inland wetland, areas of poorly and very poorly drained soils, vernal pools, or their buffers. However, the application of limestone is permitted within the buffer.
4. No storage of grass clippings or yard waste is permitted in the wetland or its buffer.
5. All proposed plantings shall have at least 75% success after two (2) growing seasons. Any plants that do not survive shall be replanted or replaced with another suitable plant species.
6. Proper erosion control will be in place before construction begins and remain in place until the area is stabilized and removed after construction is complete.
7. The buffer should remain undisturbed to the degree possible in the process of construction and elevations not be changed other than what is indicated on the approved plan. No additional fill is allowed.
8. There are to be no additional structures such as sheds, swimming pools, gazebos, patios or other sealed surface, etc. in the buffer, other than that shown on the approved plan. A new Wetlands Permit is required for the erection of any additional structure(s) in the buffer.
9. The Conservation Commission shall be notified in writing (letter or email) upon commencement and completion of the project. A final inspection shall also be scheduled with the Conservation Coordinator upon completion of the project.
10. The Conservation Coordinator shall not sign the occupancy permit until all of the Town Wetlands Permit conditions have been met. The Conservation Coordinator shall be given a minimum of 72-hour notice to allow for file review.
11. This permit will expire two years from the date that it is granted by the Planning Board.

2. 67 Mooring Drive - Amended Town Wetlands Permit and NHDES Standard Dredge & Fill.

Applicant: Edward Miville & Deborah Davis

Agent: Jason Aube, TFMoran

Property Owner: Edward Miville & Deborah Davis

The applicant is proposing to raise the existing residential dwelling structure above the BFE and reconstruct the foundation with a lower-level garage to support the structure. Additional improvements include a deck addition, replacing the impermeable driveway with permeable pavers and repairing the seawall. The Commission reviewed and recommended this Town Wetlands Permit in March 2022 but did not review the seawall repairs. The NHDES Permit was newly submitted for this month.

Mr. Aube of TFMoran gave an overview of the application for the Town Wetlands Permit:

- The seawall currently in place is about 45-46 feet in length and is made of a wooden structure that is falling apart. It is leaning toward the resource. The applicant is proposing replacing it in-kind with more sturdy materials.
- Silt Socks will be used for erosion control.
- They will carefully extract the wooden posts to put in new bedding and a structurally sound surface.
- The wall will connect to the other retaining walls on abutting properties. Abutting property owners have consented.
- The proposed impacts will only occur at low tide.
- Equipment will only be placed on the land side of the property. Nothing will be in the channel.

Mr. Fox:

- Asked if there was a detail of the seawall to be constructed. Mr. Aube confirmed there is. Mr. Aube noted that they worked with DES to determine what kind of wall to place.
- Asked if there will be a Geofabric underneath. Mr. Bonilla stated that there would be a 4 inch perforated plastic pipe. Geofabric is not necessary under the leveling pad.

Mr. Whalen:

- Asked if the proposed staggering of the seawall would cause the bottom layers and the leveling pad to stick out into the channel past the property boundary. Mr. Aube stated that it would not. Although they will match the existing wall to the greatest extent, it will be set back about 6 inches to compensate for the staggering.

Ms. O'Brien:

- Asked for clarification on the details on page 2. It looks like there are two different heights given for the mean higher high water. Mr. Aube noted that one of the numbers given is based on the Vulnerability Assessment and is the predicted high water for the year 2100.

Mr. Hiller MOTIONED to accept the amendment to the Town Wetlands Permit. SECONDED by Mr. Fox. Vote: Unanimous.

Public comment closed at 7:27 PM.

Mr. Aube gave an overview of the application for the NHDES Standard Dredge and Fill application.

- Proposed 2066 Sqft of temporary impacts.
- Proposed 1169 Sqft of permanent impacts.
- This project proposes to raise the structure and make it more resilient to sea-level rise in the future.
- The garage will be constructed on the first level.
- The driveway and walkway will be converted into a pervious technology.

Public comment closed at 7:29 PM.

Mr. Tilton MOTIONED to not oppose the application for Standard Dredge and Fill for 67 Mooring Dr. SECONDED by Mr. Hiller. Vote: Unanimous.

3. 63 Mooring Drive - NHDES Standard Dredge & Fill

Applicant: Mary T. Mulligan

Agent: Jason Aube, TFMoran

Property Owner: Mary T. Mulligan Living Trust

The applicant is proposing to temporarily impact 1,510 sq ft and permanently impact 1,082 sq ft of previously developed upland Tidal Buffer Zone for the purpose of raising an existing residential dwelling on to a new foundation at a higher elevation. Also proposed is a new deck and installation of a new permeable driveway and walkway.

Mr. Aube gave an overview of the project.

- A pervious deck is included in this proposal. It is lower than 6 feet, but they will allow spacing between decking the decking material to be a quarter inch with crushed stone below. Mr. Aube noted that DES does not view this as pervious, but with the proposed pervious surfaces, there will be a net decrease in impervious surface.

Ms. Dionne

- Asked if there is a backup plan if DES says no to the deck. Mr. Aube stated that the deck is permissible because it still meets the minimum standards. Ms. O'Brien added that it is permissible because the property owners are allowed to extend the deck up to 12 feet towards the resource line.

Mr. Whalen

- Asked if there is a seawall in the proposal. Mr. Aube stated that there is no seawall. There is a living shoreline that will suffice.

Ms. O'Brien

- Asked for clarification regarding the RSA that allows the deck to be extended toward the resource when there is a prime wetland involved. Mr. Aube stated that shoreland law would look at it as a nonconforming structure.

Public comment closed at 7:37 PM.

Mr. Tilton MOTIONED for the Conservation Commission not to oppose the NHDES Standard Dredge and Fill permit for 64 Mooring Drive. SECONDED by Mr. Hiller. Vote: Unanimous.

IV. Appointments

1. Liquor Commission- Proposed Prime Wetland Boundary Adjustment

- Representatives for the NH Liquor Commission: Paul Godfrey (Vice President, HNTB), Judy Gates (Environmental Planning Manager, HNTB), Ari Pollack (Attorney, Gallagher, Callahan, & Gartrell).
- Mr. Godfrey gave an overview of the project:
 - i. Presenting information regarding wetland boundaries at the Hampton Northbound properties. They met with the Board of Selectmen (BOS) the night before.
 - ii. Data has been collected and they have worked closely with relevant state departments.

- iii. Surplus will be sold, while a small footprint will be retained for the Northbound liquor store that is already there.
- iv. The NH Liquor Commission has gone through a Request for Quote (RFQ) and identified 8 qualified buyers. In the future the State will put out a Request for Proposal (RFP) to sell to an identified buyer.
- Ms. Gates gave some more details:
 - i. In 2010 the town of Hampton had Gove Environmental Services do a Prime Wetland Mapping using desktop GIS information.
 - ii. In 2017 TFMoran did a remapping of the area.
 - iii. This past summer HNTB reconfirmed the boundaries.
 - iv. Ms. Gates shared a slide that overlaid Gove and TFMoran wetland mappings.
 - v. The Liquor Commission is asking to remove the Prime Wetland designation in areas with red hashing in the image shared. HNTB feels that this would more accurately characterize the wetlands as non-tidal wetlands. The goal is accuracy.

Mr. Tilton:

- Asked if the changes would require another town vote. Ms. Wrobel noted that the Town Manager and Ms. O'Brien raised the same question recently and suggested that the next steps should include consulting with the Town and the attorney.
- Asked why there is a perfect straight line on the updated map presented. Ms. Gates explained that it is just an average line, it's not a straight line on the ground. Mr. Tilton voiced concern that the line seemed arbitrary. Ms. Gates stated that it is simplified, but not arbitrary.

Ms. O'Brien

- Noted that the timeline presented is not correct. The Gove report took place in 2006. The vote was in 2009. The changes were accepted by the state in 2011.
- Noted that there is no discrepancy between the town GIS and the state map. Previously, there was a GIS map on the town website that was labeled as 'Prime Wetlands', but it that was before Prime Wetlands became an actual designation with the state. That layer should have been called High Value Wetlands which were mapped in the 1990s. The town map has a layer labeled NHDES Prime Wetlands, which matches what the state has.
- Noted concern about the incorrectly mapped buffers on a slide provided. Ms. Gates stated that it's labeled incorrectly. The 100 Foot buffer is the hashed space and the 50 foot buffer is the cream color.

Mr. Whalen:

- Asked what the criteria is for the differentiation between Prime Wetlands and Non-Prime Wetlands. Ms. Gates noted that the 2017 TFMoran offers the criteria for delineation. She stated that they have all of the data and documentation and information from the field will be provided.

Ms. Dionne:

- Stated that she would like to revisit the Gove report from 2006 to understand why the delineation was made beyond tidal versus non-tidal.
- Suggested checking the rules that were in-place when the wetlands were designated prime.
- Suggested consulting with Gove wetlands again. Ms. Gates noted that they are not claiming that Gove was wrong, but they are saying that the information that was found on the ground was different than the information found using the desktop.
- Mr. Tilton stated that he would find it surprising if there was less water, and not more with

- sea-level rise.
- Ms. Raymond noted that the prime wetland was not determined using a desktop study. There was a lot of work that went into it.

Mr. Fox:

- Asked what the long term goal of redesignating these properties as Non-Prime Wetland is. The representatives for the NH Liquor Commission explain that they are looking to have the most accurate information possible for potential buyers. The next step would be to have a conversation about the conservation covenant and improve it in order to provide a greater opportunity to people who may purchase the property down the road.

Ms. Wrobel stated that the overall goal of the NH Liquor Commission is to add more upland within the space. Shrinking the buffer would allow for more development.

Mr. Fox suggested that they take a look at the other aspects that went into the prime wetland designation aside from geographic, tidal, and hydrology.

- The scientist who conducted the study was Jeremy Lessard from HNTB.
- The land makes up 67 acres.
- Access points to the land will stay the same.
- Ms. Raymond voiced concern that the graphic presented was not in-depth enough.
- Ms. Wrobel will send everyone a copy of the 2006 report.
- Ms. O'Brien would like to see how much developable upland would be available with the proposed delineation.
- Ms. Dionne would like to see another example of a Prime Wetland being adjusted from DES.

V. New Business

1. 41:14-a Proceedings- release of Deed Restriction on Formerly Leased Land 28 Noreast Ln.

Monica Kieser of Phoenix Gormley & Roberts gave an overview:

- The property owner wants to redevelop a small outdated home and replace it with a large five bedroom home with a detached Accessory Dwelling Unit (ADU).
- They are seeking relief from the restriction on the number of bedrooms and the restriction on the height of the fence (3 feet).

Mr. Tilton MOTIONED to not oppose the release of the deed restriction on formerly leased land 28 Noreast Ln. SECONDED by Mr. Fox. Vote: unanimous.

2. Ditch Remediation Project- Permitability

- There are 5 proposed locations for ditch remediation.
- No final date has been determined. It will involve mowing, binding the salt marsh hay, and staking it to the bottom of the ditch.
- This project may fall under "Governmental Land-use" and may be exempt from needing town permitting.
- There will be an opportunity for public comment on August 17th at the Planning Board meeting.
- Ms. Wrobel stated that if there is no legal reason to require a permit, there is no reason to require one, but the Conservation Commission would like to stay fully informed.
 - Mr. Whalen suggested creating an application or requiring an appointment for restoration projects like this.
- Ms. O'Brien will request documented results of the project.

- Ms. O'Brien will share a report showing how they determined the sites.

3. Field Work/Carbon Testing in the Estuary

- A professor from Worcester State University is looking to collect samples of sediment from 3 transects in the marsh with students. No live animals or vegetation will be collected. They are looking for confirmation that they can access town parcels without needing any permitting.
- Ms. Dionne suggested that they use the coastal viewer to identify the town owned parcels.
- Permitting not required.
- Ms. Worbel asked that they share the data after the project is complete.
- Ms. Dionne suggested that they get a consent from the Board of Selectmen.
- Mr. Whalen suggested that the Conservation Commission give them placards with their contact information to place in their cars so that they can be contacted if there is an issue.

VI. Old Business

1. Standard Stipulations

This topic will be deferred to the next meeting.

2. Aquifer Protection Zone Ordinance Updates

Ms. Worbel:

- Loves that they are reducing the amount of impervious surface a business can have.
- Felt that the new definitions were much clearer.
- Liked that the commission was cited as someone they would consult when there is work within the groundwater protection zone.
- Concerned about the recommendation to remove language under the conditional use permit. The Conservation Commission recommends that language be added saying "They can request things such as..." and "at the applicant's expense".

Mr. Whalen:

- Under line 165: remove "to the extent feasible".
- Would like more clarity regarding deicing chemicals.

Ms. O'Brien

- Low impact development is listed twice with two different definitions.
- Concern about the language in Use regulations, line 202 potentially encouraging over-development. The Commission suggested that language be added to say "it may be considered" when a property meets the criteria and wants to exceed the maximum.
- The language surrounding deicing chemicals is too vague.
- Line 319 is confusing.

Mr. Tilton leaves the meeting (9:40 PM).

- Line 385: Education of the public needs to be included.

Ms. Worbel will summarize the conversation and send it out to everyone for review.

VII. Conservation Coordinator and Chair Update

A Boy Scout is interested in installing a Purple Martin bird house on the town parcel off of Island Path. He is aware that there is one there already, but he thinks that the addition of another would bring more in.

Mr. Fox noted that they are working on finding some people with long term interest to indicate that they will take a hold of this project and work on it.

VIII. Adjourn

Mr. Hiller MOTIONED to adjourn. SECONDED by Mr. Fox. Vote: Unanimous.