



**Environmental Stewardship Department/
Conservation Commission**

**City of New Bedford
Jonathan F. Mitchell, Mayor**

**Meeting Minutes of the Conservation Meeting of
August 6, 2019
Brooklawn Senior Center**

Members Absent

Staff Present

**Agent Sarah Porter, Conservation Agent
Sandy Douglas, Admin. Coordinator**

**CALL MEETING TO ORDER
ROLL CALL OF COMMISSIONERS**

Vice Chairman, Dennis Audette, Chairman, Craig Dixon, Commissioner Paul Pacheco, and Commissioner Peter Blanchard

OLD BUSINESS:

1. **SE49-0771** - (Continued from 5/7/19, 5/21/19, 6/4/19, 6/18/19, 7/2/19, 7/16/19) – A Request for partial Certificate of Compliance as filed by Tim Cusson of Parallel Products of New England for property identified as 100 Duchaine Boulevard (Map 134, Lot 5). Representative is Matthew White of Farland Corp.

Mr. Matthew White of Farland Corp. was present and advised the Commission that this application had been continued due to some discrepancies in elevations in the rain garden. The glass cleanup under the canopy has been completed and the rain garden discrepancy elevations have been corrected in accordance with the recommendations from Nitsch. From the as-built, they realized that there is a low spot across from entrance to the rain garden is experiencing some sediment buildup after storms and was experiencing more runoff than it should have and contributed to the sediment across and at entrance of raingarden. It has now been corrected and the raingarden should act as intended.

Nitsch added that if regular maintenance is done on this driveway to remove sediment buildup from runoff, they feel that would be adequate. Because this area was experiencing higher runoff than intended, and the raingarden itself would build up water level past the design elevation, the employees of property owner were digging trenches on side of raingarden to alleviate the buildup of water. Now the rain garden will handle the access driveway and the employees do not need to dig trenches. Farland has advised the property owner not to dig the ditches. Mr. White stated that he believes they have addressed all Nitsch's comments and requested a Certificate of Compliance.

Commissioner Pacheco expressed concern about the sediment buildup and doesn't feel that the owners will continue with the proper maintenance.

Commissioner Audette inquired if they have installed waddles around the drains? Mr. White responded that the waddles and concrete barriers were there to stop the debris and will continue to stay there until receive approval.

Agent Porter advised that she has received comments from Nitsch Engineering dated July 16, 2019 regarding 100 Duchaine Boulevard, Parallel Products, DEP #SE49-0771. The as-built plan was updated and includes spot elevations along the access driveway that indicates that the access driveway is super elevated however there was sediment on both sides of the access driveway that demonstrates low points on both sides and she provided photographs. If the driveway were super elevated completely, sediment would not collect on the opposite side of the access driveway. These depressions effectively collect sediment before it flows towards the raingarden, providing some water quality treatment. If the access road grades are not adjusted, these depressions should be maintained regularly to remove any sediment that collects in these areas. Does the Commission want the grades adjusted or allow the sediment to collect on that roadway area?

Chairman Dixon inquired whether the sediment collection was observed by Nitsch while glass was being stored? Agent Porter stated according to Nitsch's letter it states that glass stockpiles that were previously located beneath the canopies had been removed and much of the sediment that had been generated by these stockpiles has also been removed.

Agent Porter advised that under a Certificate of Compliance it can only have ongoing conditions that are conditions of the permit that was issued, and you cannot add on additional conditions. What was originally approved was maintenance two times a year. The Commission can now order that the pavement be ripped up and put it down again or accept it with low spots for sediment deposition.

The Commissioners all agreed that it should be torn out and repaved. Mr. White feels that with regular maintenance the sediment wouldn't be an issue. Mr. White asked for a continuance until the repairs have been made.

Agent Porter inquired if Mr. White has spoken with property owners about them not digging trenches. Mr. White has spoken with them several times not to dig the trenches and to just let it act as it does since it has been lowered and now has an emergency overflow. He can explain to them again that digging trenches cannot be done. Commissioner Audette inquired as to who instructed the employees to dig the trench. Mr. White responded that he assumes it's the property owner and doesn't understand why they continue to do so.

There weren't any questions or comments from the public.

Mr. Kenneth Costa of 148 Greenbrier Drive was present and stated that he feels the Commission is making the right decision since the property owner is just going to continue doing whatever he wants to do. There is always a water issue in that area and if sediment accumulates it's just going to attract mosquitoes. Mr. Costa feel this is a bad project.

Ms. Wendy Graca of 26 Elizabeth Street, New Bedford, was present and stated that she agrees with Mr. Costa and she wanted it to be known that Mr. White stated on record that he has advised them what not to do and they continue to do it and it's important to note that.

Commissioner Audette made a motion to table this matter to the next meeting. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

2. **SE49-0798** - (Continued from 7/16/19) - Request for a Certificate of Compliance as filed by Plumbers Supply Co., Inc., for property identified as Flaherty Drive (Map 133, Lot 61). Representative is Richard Riccio of Field Engineering. **CONTINUED**

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) - 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 Rick Charon of Charon Associates, Inc. **CONTINUED**
2. **SE49-0810** – (Continued from 9/4/18, 9/17/18, 10/2/18, 10/16/18, 11/6/18, 11/20/18, 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) - A Notice of Intent as filed by Norman Nichols for property identified as a 50' wide easement through Map 130A, Lot 720. Applicant proposes a stream crossing for a 20' wide paved drive which shall alter Bordering Vegetated Wetland, Bank and Land Under a Waterway. Representative is Richard Rheume of Prime Engineering. **CONTINUED**
3. **SE49-0819** - (Continued from 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) - Notice of Intent as filed by MIH1, LLC for property identified as Farland Circle (Map 130D, Lot 472). Applicant proposes to construct a single-family dwelling on each lot in the Buffer Zone to a Bordering Vegetated Wetland. Representative is Jack Tabares of Farland Corp. **CONTINUED**
4. **SE49-0820** - (Continued from 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) - Notice of Intent as filed by MIH1, LLC for property identified as Farland Circle (Map 130D, Lot 477). Applicant proposes to construct a single-family dwelling on each lot in the Buffer Zone to a Bordering Vegetated Wetland. Representative is Jack Tabares of Farland Corp. **CONTINUED**
5. **SE49-0821** - (Continued from 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) - Notice of Intent as filed by MIH1, LLC for property identified as Farland

Circle (Map 130D, Lot 478). Applicant proposes to construct a single-family dwelling on each lot in the Buffer Zone to a Bordering Vegetated Wetland. Representative is Jack Tabares of Farland Corp. **CONTINUED**

6. **SE49-0824** - (Continued from 4/16/19, 5/7/19, 5/21/19, 6/4/19, 6/18/19, 7/2/19, 7/16/19) - A Notice of Intent as filed by Michele Paul Director of Environmental Stewardship for the City of New Bedford for property identified as Riverside Park (Map 99, Lot 81; Map 100, Lots 83 and 84) which is located on the east side of Belleville Ave. and the north side of Coffin Ave. Applicant proposes to remove invasive species. construct a six-foot wide riparian walkway and plant native vegetation adjacent to the pathway. Representative is Stevie Carvalho of Farland Corp. **CONTINUED**
7. **SE49-0828** – (Continued from 7/2/19, 7/16/19) - A Notice of Intent as filed by the Massachusetts Department of Transportation for property identified as 355 & 387 Church Street and the associated Railroad Right-of-Way in New Bedford (Map 113, Lots 1, 2 & 475). Applicant proposes to construct a new commuter rail station on the New Bedford Main Line (North New Bedford Station) as well as associated drainage infrastructure and sidewalk improvements, as part of the South Coast Rail Project. Portions of the project fall within the 100' Buffer Zone to a wetland resource area identified as inland bank. Representative is Lars Carlson of Vanasse Hangen Brustlin, Inc. **CONTINUED**

NEW HEARINGS:

1. **SE49-0833** - A Notice of Intent as filed by Amy Goldman of ATP Operations, LLC for property identified as East Beach (Map 6, Lot 2). Applicant proposes to construct two seasonal life jacket racks on East Beach in Land Subject to Coastal Storm Flowage. Representative is Amy Goldman of ATP Operations, LLC.

Ms. Amy Goldman of ATP Operations was present and advised that she is proposing to put a couple of 8' x 8' x 12' life jacket racks next to the pier on Monkey Island to hang life jackets on to air out. The racks will be pressured treated and if there is a named storm with sustained winds of 45 mph or more the racks will be removed and taken off the beach. Commissioner Audette inquired as to where are they going to store them. Ms. Goldman stated they will store them in the back of the north parking lot where the dumpster is. Commissioner Audette advised that it cannot be stored there since it is a flood zone. Ms. Goldman stated they will put them on the back of a flatbed and haul them out of the floodplain completely just like the inflatables. Commissioner Audette inquired if they are proposing to clean the lifejackets on the beach. Ms. Goldman stated the life jackets only get rinsed with water and hung on the racks to air dry in the sun.

Commissioner Pacheco inquired as to how long the company has been in existence. Ms. Goldman replied that the trampoline park has been in existence since 2012 and H2O since last year. Commissioner Pacheco expressed his disappointment that this is the second time an after-the-fact application is filed and that they should have known in advance that a permit was needed. Ms. Goldman understands his concerns and is trying to be a good partner and that she was unaware that she needed a permit for this, and it was not their intent for it to be this way.

Agent Porter stated for the record the Commission has before them a Notice of Intent application and Plan entitled ATP Operations, LLC received by the Commission on 7/25/19. This is a proposal for two life jacket racks to be placed on the beach in the coastal velocity zone elevation 22'. They will be there seasonally, Memorial Day to Labor Day. Agent Porter emailed the proposal to Danny Romanowicz who commented that the timber locks they use to hold together the racks can be easily removed. The locks have self-tapping screwing threads so they penetrate easily and can be removed easily. As far as 310 CMR 10.27 is concerned, any project on a coastal beach shall not have an adverse effect by increasing erosion, decreasing the volume or changing the form of any such coastal beach or an adjacent downdrift coastal beach. These racks are above mean high-water line and sit on posts which are set on the ground and it is not anticipated they will have any impact on the beach erosion. Agent Porter recommended the issuance of an Order of Conditions with following Special Conditions: the life racks are to be dismantled twenty-four (24) hours in advance of a named storm or when sustained winds of 45 MPH or greater are forecasted and is to be stored outside of the 100 year floodplain including the parking lots across the street and parking lots on Fort Taber, and no cleaning products are to be used on the life jackets. The plan for approval is Altitude H2O seasonal life vest rack at East Beach., NB. Agent Porter explained to Ms. Goldman that the applicant cannot install the life jacket racks until the Order of Conditions has been issued and then must wait 10 business days because of the appeal period.

Chairman Dixon inquired whether there was anyone present who wished to comment on this matter. None heard.

Commissioner Audette made a motion to issue an order of conditions with conditions as read by the Agent. Motion was seconded by Commissioner Blanchard. Commissioner Pacheco did not vote in favor of this project. Motion passed with 3 to 1 vote in favor of the project.

OLD BUSINESS CONTINUED:

1. Briarwood Court - update on Enforcement Order

Agent Porter advised that she has sent out the violation notice with a fine on July 12, 2019 and they have until August 12th to pay the fine and remove the material so is just waiting to see what happens and has not received a response.

2. 3806 Acushnet Avenue - update on Enforcement Order

Agent Porter advised that this is Order of Conditions SE 49-0811, the fence is up, all the seeding has been done, and he has decided he is not going to request an Amended Order on additional loam placement and the only thing remaining is the sign.

3. Almy Street Enforcement Order – owners have requested to appear.

Mr. John Miguel and Linda Andrade, the owners of the property were present. Mr. Miguel stated that he has done everything, and that Stephen Chmiel and the Agent have not been out yet to see the property. Mr. Miguel stated another tree fell and messed up the erosion controls and that his backyard is a mess (showed pictures of his backyard).

Commissioner Audette inquired if Stephen guided him. Mr. Miguel replied that Stephen did not do his job accurately and he was sick that day standing around wasn't guiding the machine operator. Mr. Miguel

got into a verbal altercation with Mr. Chmiel and kicked him off his property and he filled it back in himself and leveled it.

Mr. Miguel will not be putting the fence up this year as he has run out of money, he will do it next year. Mr. Miguel stated that Agent informed him about putting up a sign, wasn't told about putting up a sign and feels that when he bought the property the sign should have been there and that he is not paying someone to make a sign and will make one out of cardboard with a magic marker.

Mr. Audette stated that this Commission has worked with him throughout this process and that the sign is in the restoration plan and doesn't appreciate Mr. Miguel challenging this commission and saying that he's making a sign out of cardboard and everyone else that comes before this Commission must put up a sign.

Mr. Miguel stated he is not paying Mr. Chmiel until he comes and puts down the seed and he will put up the sign and put the fence up next year. Chairman Dixon suggested that the seeding needs to be done this year and that Mr. Miguel should work with Mr. Chmiel.

Agent Porter advised that Mr. Miguel has stated to her that he does not want her on the property. Mr. Miguel stated that she can go on the property, but he would like to know when to expect her because he has big dogs and would like to make sure they are securely put away. Mr. Miguel will set up a time with the Agent to visit the site.

Agent Porter suggested doing another Enforcement Order providing them with an extension for a year and seeding to be done by September 21, 2019. Mr. Miguel is going to contact Mr. Chmiel to come and do the seeding.

4. 167/177 John Vertente Boulevard – air conditioning condensate

Agent Porter advised that she received an email from Scott Turner dated 7/30/19 stating that he found the air conditioning condensate does not significantly impact the capacity of the existing basin and the condensate is also not considered an illicit discharge per the stormwater standards. The side slopes of the detention pond and swale are vegetated with trees and are in the middle of cleaning out their catch basins and took care of their erosion issues. The engineer is preparing an operation and maintenance report for the Conservation Commission and suggested sending it to Nitsch for review. Right now, the condensate is okay to go and still working on the maintenance of the stormwater system.

NEW BUSINESS:

1. Old Plainville Road – question about wetland boundary

Agent Porter advised for the record that she has a plan from Jose Castelo entitled Building Permit and Septic Design Plan New Homes by Castelo, Inc., for Old Plainville Road, Map 124, Lots 47, 168 & 169 and the unbuilt Plane view Lane dated 6/26/19 together with Wetlands Field Scientist report prepared by Christopher Capone, Wetland Field Scientist, undated but the field inspection was completed on June 8, 2019.

Agent Porter explained this is a situation of a wetland boundary that expired ten years ago. Proposal is for a duplex and the wetland scientist, Mr. Capone, has been to the site and he does not agree with the

original boundary feels it is further back (away from the proposed duplex). Agent advised him that normally you would file an RDA with new flagging and the engineering is saying everything is outside of the buffer zone and even if he uses existing line it's outside of the buffer zone and doesn't feel he needs to file with the Commission.

The commission agreed that an RDA needs to be filed to have an updated wetland boundary shown on the plan.

GURNEY PLACE, SASSAQUIN POND

Agent Porter advised that she received a phone call from Commissioner Audette yesterday about an expired Gurney Place subdivision (Plan is entitled Gurney Place, New Bedford, MA Definitive subdivision Plan revise dated August 1, 2005) they decided to start work but all the orders have expired.

Chairman Dixon recused himself from this matter because the contractor is Eric Smith. Chairman Dixon left the meeting room at this time.

Agent Porter advised that they are working in the buffer zone and starting the subdivision without a valid permit from the Con Com.

Agent Porter spoke with DPI and Planning. DPI informed her that a meeting was supposed to have taken place and it never did. The Planning Dept., is looking into it also because they believe everything has expired with them as well.

The Commission agreed to send an Enforcement Order to the owner of the property, John Carvalho, to file a Notice of Intent within 60 days.

2. Agent Updates/General Correspondence

Agent Porter passed around the Public Checklist for Creating and Improving Meeting Minutes from the Attorney General's Office dated March 12, 2013 for their review.

FIRESTATION #5, ACUSHNET AVENUE

Agent Porter advised that they would like to put a shed in the buffer zone on existing pavement. Agent Porter does not see this being an issue. Commissioners agreed.

Agent Porter advised for the record that she has two letters from Chairman Dixon. One is addressed to the park Board and the other is addressed to the Departments in general who submit applications to the Conservation Commission. The Commissioners reviewed the letter. Agent Porter read both letters into record.

Commissioner Pacheco made a motion to circulate the letters. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

3. Meeting Minutes of 2/19/19, 3/5/19, 3/19/19, 4/2/19, 4/16/19, 5/7/19, 5/21/19, 6/4/19, 6/18/19, 7/2/19 & 7/16/19 for approval.

Commissioner Audette made a motion to accept the meeting minutes of 2/19/19, 3/5/19, 3/19/19, 4/2/19, 4/16/19, 5/7/19, 5/21/19, 6/4/19, 6/18/19, 7/2/19 & 7/16/19. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

ADJOURN

Commissioner Audette made a motion to adjourn at approximately 7:50. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

Respectfully submitted,

Sandy Douglas, Administrative Coordinator