



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

**Meeting Minutes of the Conservation Meeting of
August 27, 2019
Brooklawn Senior Center**

Members Absent

Paul Pacheco

Staff Present

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

CALL MEETING TO ORDER

Chairman Dixon called the meeting to order at 6:30 pm

ROLL CALL OF COMMISSIONERS

Vice Chairman, Dennis Audette, Chairman, Craig Dixon, 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, 8/6/19) – 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. Christian Farland of Farland Corp., was present on behalf of the applicant. Mr. Farland did have an onsite meeting with the Agent to discuss this issue which he feels is very minor. The slope of the driveway is at ½% slope which for construction purposes and to get asphalt to be exactly per plan is very difficult while also trying to match the grades of existing parking lot. Mr. Farland feels that meeting the design slope is very challenging and that the minor ponding like ½” is very minimal. He believes the puddle is gone after a day. What ends up happening is there is a little bit of sediment in the area that ponds and felt it was a good idea to amend the operation and maintenance plan that would make the applicant maintain not only that one area but the site and do street sweeping quarterly instead of yearly and also after each two-year rain storm event. The street sweeping will remove the sediment off site instead of having sediment go into bioretention area. This is Mr. Farland’s recommendation and requested that the Commission forward his recommendation to Nitsch for their review. Another option would be is to fix that area, but his concern is that it’s such a minimal area and if were to raise that area ½” it would divert water to another low area on site and would keep chasing it. Even if leave it as is, there will not be any negative impacts.

Commissioner Audette feels that should stick to what this Commission decided on at the last meeting, there are already issues on that site with the owner and doesn't feel the owner will maintain it. Commissioner Audette stated that he would like this done right.

Agent Porter stated she understands that they might find it difficult to rip out the pavement, but she agrees with Commissioner Audette.

Mr. Farland did not agree with the Commissioner's recommendation and would like to setup another meeting with the consultant. Agent Porter advised that she can contact the consultant to meet onsite on Friday since she will already be in New Bedford, and she will notify Mr. Farland of the time. Chairman Dixon and Vice Chairman Audette would also like to be notified.

Ken Costa of 148 Greenbrier Drive, New Bedford, MA commented that there hasn't been that much rain in August it's been below average and that is going to be an absolute disaster.

Wendy Graca of 26 Elizabeth Street, New Bedford, MA was also present and stated when consultant comes out on Friday, they need to be made aware that the owner has not complied with the recommendations by their own consultant.

Commissioner Audette made a motion to table to the next meeting on September 17, 2019. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

2. **SE49-0798** - (Continued from 7/16/19, 8/6/19) - 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.

Commissioner Audette made a motion to continue per representative's request. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

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) - 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, 8/6/19) - 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, 8/6/19) - 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 in the Buffer Zone to a Bordering Vegetated Wetland. Representative is Jack Tabares of Farland Corp.

Mr. Jack Tabares of Farland Corp., was present on behalf of the applicant. Mr. Tabares advised that they are proposing a single-family home with associated grading, utilities, city water and sewer, stormwater underground chamber for roof runoff, erosion controls will be staked haybales, signage at 25' buffer zone on existing stonewall, arborvitaes or fence, if existing stone wall is used it will be 3'-4' tall.

Agent Porter advised that this NOI together with the next two NOIs have been continued because they are not in compliance with Condition #52 of the Farland Estates Subdivision which states that *prior to any issuance of any further Order of Conditions on this property and the two other properties on the agenda this evening, the stormwater management system shall be substantially complete and functional. The as-built drawings of the entire stormwater management system and hydrologic calculations for the 2, 10- and 100-year storm events certified by a Massachusetts Registered Professional Engineer shall be submitted to the Commission and reviewed by the consultant for the Conservation Commission. The applicant shall correct any deficiencies notes in the review of the as-built plans and comments prior to the Conservation Commission's issuance of any further Order of Conditions on the property.* She has received an as-built of the stormwater pond and some additional information was also received this afternoon but she has not had an opportunity to review it. The calculations were done by a different company, so they are requesting that we provide them with predevelopment calculations and Nitsch is looking into that. These issues need to all be resolved.

Commissioner Audette commented that Mr. Farland does a lot of work for the City and in the City and how are these projects presented as incomplete and are not in compliance. Mr. Farland replied that the drainage system and basin is completely done, and the calculations have been submitted the only thing not done is the final pavement in the roadway and that's the last thing that is done. The drainage calculations for the entire subdivision were submitted to the Agent this afternoon. Agent Porter did not have an opportunity to review these calculations.

Chairman Dixon inquired if there is a reason why they couldn't get the proposed house entirely out of the 100'. Mr. Farland replied they could possibly squeeze the house closer to the roadway but there was an issue with setbacks. Mr. Farland will look into getting it out of 100'.

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

- 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, 8/6/19) - 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 in the Buffer Zone to a Bordering Vegetated Wetland. Representative is Jack Tabares of Farland Corp.

Mr. Jack Tabares of Farland Corp., was present and stated that they are proposing a single-family home with walkout to the back, haybales, stonewall or arborvitaes to be used as proposed in previous application.

As stated in application above, this matter does not comply with Condition #52 and needs to be continued.

Commissioner Audette made a motion to table to the next meeting of September 17, 2019. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

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, 8/6/19) - **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 in the Buffer Zone to a Bordering Vegetated Wetland. Representative is Jack Tabares of Farland Corp.

Mr. Jack Tabares of Farland Corp., was present and advised that they are proposing a single-family dwelling and house is as far to the left of the property as possible.

Commissioner Audette made a motion to table to the next meeting of September 17, 2019. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

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, 8/6/19) - **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.

Agent Porter advised that she has not heard from Mr. Carvalho.

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

7. **SE49-0828** – (Continued from 7/2/19, 7/16/19, 8/6/19) - **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.

Mr. Lars Carlson of VHB was present and advised that this matter had been referred to Nitsch for review on July 2, 2019 and on 8/1/19 they received letter from Nitsch with comments and they responded to said comments on August 6, 2019. They have addressed all Nitsch's concerns and have provided revised drawings and minor changes to the Operation and Maintenance Plan.

Agent Porter recommended the issuance of an Order of Conditions with the following Special Conditions, that the SWPPP be submitted to the Conservation Commissioner for review in electronic format 30 days

prior to initiation of construction, SWPPP reports to be made available to the Conservation Commission upon request, underground stormwater management system to be wrapped in watertight membrane made of either PVC or HDPE liner with a minimum thickness of 30 ml and min of 1.5 overlap at the seams (this was a recommendation by Nitsch for final construction documents), sweeping of asphalt to occur annually in the Spring (April and May), as-built plans including, grading, drainage and utilities shall be submitted upon completion of construction and prior to issuance of a Certificate of Compliance. Documents for Approval from the Notice of Intent include Appendix E: Recommended Construction Period Pollution Prevention and Erosion and Sediment Controls and Appendix F: Long Term Pollution Prevention Plan. Plan Sheets for approval are GN-300 (rev.dated 8/6/2019); GN-301, KP-300, CN-301, CN302, CN-303, SV-300, SP-300, SP-301, SP-302, CV-300 all dated 6/17/2019; GD-300 (rev. dated 8/6/2019); SS-300, SD-301 through SD-307 all dated 6/17/2019.

Commissioner Audette made a motion to approve a Notice of Intent with Special Conditions as read by the Agent. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

NEW HEARINGS:

1. **SE49-0834** - A Notice of Intent as filed by Laura Peterson of Cape Cod Aggregates for property identified as 100 Herman Melville Boulevard (Map 66, Lot 165). Applicant proposes to conduct repairs to the bulkhead's damaged timber fender system. Representative is David Arpin of RT Group, Inc.

Mr. David Arpin of RT Group, Inc., was present on behalf of the applicant. Mr. Arpin advised that the bulkhead has a timber fender system that was damaged recently and is proposing to replace it in kind with timber fender piles, timber whales, timber shocks.

Chairman Dixon inquired as to how many piles were being replaced. Mr. Arpin replied there are 11 total.

Commissioner Audette inquired if they were pulling the old piles out. Mr. Arpin replied they will be pulled out.

Agent Porter advised this is a straight forward project and are just repairing the fender system, Division of Marine Fisheries did not have any comments or proposals. Agent Porter recommended the issuance of an Order of Conditions with the following special conditions: all demolition and construction debris is to be disposed of in a legal upland location, CCA and ACA are approved wood preservatives, with the exception of the tops of the timber piles which shall be treated with AWPA M4 which is 2% copper naphthenate followed by coal tar roofing cement, fuel shall not be stored on site, a spill control kit including absorbent materials shall be on site at all times, all hydraulic equipment shall have vegetable-based non-toxic, non-polluting and biodegradable hydraulic fluid. The Plans for approval are Fender System Repair Cape Cod Aggregates Bulkheads, New Bedford, MA sheets 1 through 10 of 10 dated 7/26/19.

Commissioner Audette made a motion to approve with the special conditions as read by the Agent. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

OLD BUSINESS CONTINUED:

1. **Briarwood Court - update on Enforcement Order**

Agent Porter advised that they have not cleaned the property or paid the fine. Agent spoke with John Flor, the Attorney for City that handles these matters and he is going to speak with inspectional services and have them send out a notice that if they do not clean it up, it will be cleaned up and they will be billed for the cost.

2. 3806 Acushnet Avenue - update on Restoration Plan

Agent Porter advised that she is just waiting to see if the signage is up.

ALMY STREET

Agent Porter advised that the Commission needs to ratify the Enforcement Order of 8/9/19 that the required seeding is to be done by September 21st and notification for a site inspection is to be done by the Agent by 11/20/19 and the fence is to be installed by August 6, 2020 and notify the Conservation for inspection of the fence no later than 8/20/20.

Commissioner Audette made a motion to ratify the Enforcement Order of 8/9/19. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

NEW BUSINESS:

1. Agent Updates/General Correspondence

- **1351 Sassaquin Avenue Notice of Violation**

Agent Porter advised that she sent out a notice of violation they had contacted Agent saying they wanted to remove some dead trees and trim vegetation back to 4' and they took out more vegetation than the 4' if they want to do more cutting have to come before commission and if they did more cutting without approval they will be subject to fines and an enforcement order. Chairman Dixon wanted to establish a protocol about cutting trees and vegetation. Dixon felt that don't have much of a leg to stand with this situation since spoke with property owner's father and neighbor of property owner regarding the conditions for the cutting. He feels that going forward if a property owner wants to cut then they need to submit a letter stating exactly what work they are proposing to do to include pictures with markings of what they are proposing to cut, etc., and then meet on site with the property owner. Agent Porter recommended they flag the vegetation to be removed with surveyor's tape and photograph that. Once the Commission agrees upon what they can do, send them a letter.

Dennis came home and his wife advised him that that tenant was out there cutting at 1351 Sassaquin Avenue and he went over there, and tenant denied cutting anything but the trimmers were near him.

- **29 Rosa Drive**

Agent porter stated they put a hot tub in without a permit from inspectional service, they are in the buffer but not in the no disturb zone.

Agent Porter advised that this is going through the building department now but wanted to talk to the commission before signing off.

Chairman Dixon suggested writing a letter to the property owner and remind them that they have wetlands on their property and before doing anything on their property that they have consult with the Conservation Commission since the hot tub is outside of the no disturb zone.

- **Valley Road tree cutting proposal**

Agent Porter advised that there are wetlands behind certain homes on Valley Road and the city own the parcel with the wetlands that borders the houses. The property owners have been complaining for a couple of years to DPI because these trees are on city property and are over hanging onto their property and creating problems. DPI - Forestry is going to go and remove some of the trees but agent will walk the area with them to find out if they are going to be cutting in wetlands and if they are, they will need to determine what they will need to file. DPI did say they were going to cut and drop them on site. Agent is going to meet them on site on Thursday and will report back to the Commission.

2. Revolving Account/ Nitsch Contract

Do not need to send this out to bid every three years can keep Nitsch as engineer of record because it's engineering services but must initiate a new contract every three years. Does the Commission want to continue with Nitsch or put it out to bid? Commissioners agreed that Nitsch does a great job and is very thorough. The agent felt, that in comparison to reviews from other consultants she feels that this Commission gets the best results for the cost with Nitsch as far as their review of their stormwater management standards and they are consistent with their construction inspections.

Commissioner Blanchard did a motion to renew Nitsch's contract in the amount for one year with 2 one-year options to renew. Motion was seconded by Commissioner Audette. All in favor. Motion carries.

Agent Porter also advised that 127, 553.00 in account and suggested allocating \$30,000.00 to Nitsch for the first year. Commissioner Audette made a motion to allocate \$30,000.00 to the Nitsch contract. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

3. Meeting Minutes of 8/6/19 and 8/13/19 for approval.

Commissioner Audette made a motion to approve the meeting minutes of August 6, 2019 and August 13, 2019. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

4. Green Infrastructure Workshop on September 20, 2019

Agent Porter inquired if any of the Commissioners were interested in attending this workshop. It is a two-part workshop with morning session being more applicable to the Commissioner. Commissioners Dixon, Audette and Blanchard will let Agent know by Friday.

5. Erin Court

Agent Porter advised that the homeowner has requested a letter stating that he is in compliance. Chairman Dixon inquired if he is in full compliance. Agent Porter advised that he has put up his arborvitae hedge and the sign and is in compliance. Chairman Dixon and Commission agreed that a letter stating that he is currently is compliance can be sent to him.

6. Waterpark

Agent Porter advised that they are going to be staying open past Labor Day and there was no time restriction placed on the Order and they are inquiring if they can leave the anchors in because they are

coming back next year. They are proposing to take the cable and run it through all the loops for the anchors with two buoys to mark the area. Does the Commission agree this can be done through a minor modification or have them file an amended order? The Commission agreed to send them a letter advising that they can do this as a minor modification provided that if they don't get contract next year, they will have to come back to remove the anchors and advise the Agent so that she can account for all their complete removal.

7. Gurney Place:

Commissioner Audette inquired if the Agent had heard anything from owner that was doing work out in the fifteen-year-old subdivision in Sassaquin. Agent Porter advised that she has not heard from him and the green certified mail card has not been returned.

ADJOURN

Commissioner Audette made a motion to adjourn at approximately 7:44. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

Respectfully submitted,

Sandy Douglas, Administrative Coordinator