

**Hampton Conservation Commission
Meeting Minutes
Tuesday, March 22, 2022**

Present:

Deborah Wrobel, Chair
Jay Diener, Vice-Chair
Pete Tilton
Robert Fox
Keith Lessard, Planning Board Representative

Staff Present:

Brianna O'Brien, Conservation Coordinator

I. Call to Order: 7:00 pm

II. Election of Offices

Mr. Tilton MOTIONED to nominate Ms. Wrobel as chairperson for the Hampton Conservation Commission. SECONDED by Mr. Diener. Vote: Unanimous.

Mr. Tilton MOTIONED to nominate Mr. Diener as vice-chair for the Hampton Conservation Commission. SECONDED by Ms. Wrobel. Vote: 3 in favor, Mr. Diener abstained.

Mr. Diener MOTIONED to nominate Pat Swank (absent from meeting) as Clerk. SECONDED by Mr. Diener. Vote: Unanimous.

Ms. Wrobel thanked the citizens of Hampton for their support of the two warrant articles that were submitted by the Conservation Commission. She noted that 83% of the votes were in support of the purchase of the Barkley Property and there was also overwhelming support for the full-time Conservation Coordinator position.

III. Review Minutes

Mr. Diener MOTIONED to approve the February 22, 2022 minutes with edits. SECONDED by Mr. Tilton. Vote: Unanimous.

IV. Application

1. 1026 Ocean Boulevard (22-010) Town Wetlands Permit & NHDES Expedited Minimum Impact.

Applicant: Corinna & Greg Tucker

Agent: Jason Aube, TF Moran

Property Owner: Poseidon Realty Trust, William Zorn, Trustee

Mr. Aube spoke on behalf of this application. He gave an overview of the project.

The project proposes to impact 718 sq ft for the purpose of replacing an existing beach access stairway with a more modern beach access stairway. Instead of going straight to the beach it will traverse and will mimic what the adjacent lot has. Mr. Aube stated that they have consulted with

NH fish and game, the New Hampshire Natural Heritage Bureau, the Commission of Historical Resources, and other relevant state and federal entities and none have voiced any concerns.

Ms. Wrobel referred to a prior conversation and asked about the access. Mr. Aube stated that they are going to determine the window of opportunity to get a mini excavator on the beach. He is open to any guidance from the Conservation Commission.

Ms. Wrobel noted that accessing the beach may require permission from the Board of Selectmen. Mr. Diener confirmed that Mr. Aube will have to go to the Board of Selectmen and that he will also want to get in-touch with the Department of Public Works about restoration at the access point once the project is complete.

Mr. Aube discusses the optimal time frame for access with the commission. It is agreed that sometime before the end of May would be best.

Ms. O'Brien asked if it is possible to access via the side of the property. Mr. Aube noted that there is a passageway on the southerly side of the property. This access will be their first approach. Ms. O'Brien noted that they will likely still need Board of Selectmen permission to access the beach. Ms. Wrobel added that it depends on if the land is town or state owned. Mr. Aube believed it was town property. Ms. O'Brien stated that it would be preferable to bring the excavator through the passageway on the property.

Mr. Lessard asked if the excavator would be able to perform effectively from the property. Mr. Aube stated that it would be tricky, but they are coordinating with the contractors.

Ms. Wrobel advised Mr. Aube to send a note to Ms. O'Brien if he needs any guidance on who to contact for approvals.

Mr. Diener pointed out that the drawings show the stairs encroaching on town property. Mr. Aube confirmed this and ensured that they are in the process of making arrangements to make that possible. He noted insurance and approvals being obtained.

Mr. Diener asked about fall-back options if the Board of Selectmen say no to the request. Mr. Aube explained that they have not explored other options and cited that the property next door seemed to receive approval for the same thing. Mr. Tilton noted that the next door property may have been pre-existing. Mr. Diener added that next door they may not be on town property. Mr. Aube referenced the NH mosaic showing the property lines.

Mr. Diener and Mr. Aube confirmed that the only changes within the 50 foot buffer are the stairs and plantings.

Mr. Lessard suggested that Mr. Aube calls the Planning Office.

No public comment.

Mr. Diener MOTIONED to recommend approval of the Town Wetland Permit based on the plan dated 2-7-22, pending the Board of Selectmen approval for access to town land. SECONDED by Mr. Tilton. Vote: Unanimous.

Mr. Tilton MOTIONED for the Chairman, Ms. Wrobel, sign the expedited permit. SECONDED by Mr. Diener. Vote: Unanimous.

Ms. O'Brien asked if the Conservation Commission wants wetland buffer markers included as a stipulation of the permit. The commission determines that one wetland buffer should be used on each side of the house.

2. 64 Mooring Drive (22-012) Town Wetlands Permit

Applicant: Mary T. Mulligan Living Trust

Agent: Corey Colwell, TF Moran

Property Owner: Mary T. Mulligan Living Trust

Mr. Aube spoke for this application. This project proposes to raise the existing structure above the flood elevation and reconstruct the foundation to support the structure. A deck will be added, and the impervious driveway will be replaced with a permeable paver driveway.

Mr. Aube stated that this project is an effort to make the property more resilient. This project poses low environmental impacts which will incur solely within the existing structure. Erosion controls will be installed and monitored during the project.

Mr. Diener asked how high the proposed rear deck would be off the ground. Mr. Aube said about two-feet and added that it will be tucked behind the existing dwelling. Ms. O'Brien asked if it would match the elevation of the existing landing. Mr. Aube says yes.

Ms. Wrobel asked if the deck was included in the impervious calculations. Mr. Aube confirmed that it was.

Mr. Diener voiced a concern that the deck extends further towards the water resource than the existing structure. Mr. Aube stated that they feel it is the best way to utilize the space. He noted that the area is currently manicured lawn. Mr. Diener felt that vegetation is better than a deck. Mr. Aube noted that he is not aware of any limitations that prohibit the expansion of a deck towards the resource. He referenced an RSA that allows them to extend up to 12 ft. Mr. Diener reminded Mr. Aube that the town is allowed to be more strict than the state and stated that the Conservation Commission would prefer to prevent any further impact. Mr. Aube noted the recently installed living shore line, robust planting plan, and the net decrease even with the deck extending toward the resource. Mr. Diener acknowledged the work, but noted that encroachments add up. Mr. Tilton agreed with Mr. Diener.

Ms. Wrobel asked if a walkway is being removed. Mr. Aube said yes and noted that they have looked at the concerns about egress and they have been included in the impervious surface calculations.

Ms. O'Brien asked for clarification on the plans. Specifically, sheet C1 notes 7 and 8 and 13B under erosion control notes fertilizer application mentioned, but fertilizer is not allowed within 50 feet of the buffer.

Mr. Aube said he will take a closer look at that. He also asked about the viability of a pervious deck designed so that stormwater could infiltrate it. Mr. Diener likes the concept, but is unsure of the effectiveness. He asked for more information on what would be under the deck. Mr. Aube explained the underlining that would be used and said it would be similar to a pervious walkway.

Mr. Diener asked how deep the water table was. Mr. Aube did not have an exact number, but was confident that it was high. Mr. Diener noted that the water table could also be an issue for the

pervious driveway.

Ms. O'Brien referenced more notes in the plan. On Sheet C2 there is reference to an infiltration system and stormwater BMPs, but that is not shown on the site plans. Mr. Aube confirms that there are no plans for an infiltration system.

Ms. O'Brien echoes Mr. Diener's concerns about the permeable deck and says that she does not believe there are any ordinances in place that would allow them to consider any deck less than 6 feet of the ground permeable.

No public comment.

Mr. Lessard noted that there was a pervious deck previously installed in-town, the problems that arose had to do with debris falling through the cracks and rendering the ground less permeable. The other issue was that people could put mats over the deck and make the deck impermeable.

Mr. Diener MOTIONED to approve the Town Wetlands Permit with the stipulation that the northeast deck be pulled back to be flush with the home. SECONDED by Mr. Tilton. Vote: Unanimous.

3. 67 Mooring Drive (22-013) Town Wetlands Permit
Applicant: Edward Miville and Deborah Davis
Agent: Corey Colwell, TF Moran
Property Owner: Edward Miville and Deborah Davis

Mr. Aube of TF Moran spoke for this application. This project proposes to impact just over 3000 sq ft to make it more resilient to sea-level rise. It includes adding a first floor for a garage and adding a living space above it. They would like to convert the existing impervious driveway to a pervious paver driveway. The project has relatively low impact and will not disturb any undisturbed natural resources.

Mr. Tilton asked if there are any additional impact permits that they will need to apply for. Mr. Aube confirmed that they will just be going upwards and adding a small deck.

Mr. Diener asked if access would be via stairs up to the rear deck. Mr. Aube confirmed and said the deck would be on the second floor.

7:48 PM Owner, Edward Miville, joins Mr. Aube at the table.

Mr. Diener asked about the new ordinance regarding pervious decks. Ms. Wrobel says that because it is more than 6 feet off the ground it is not an issue.

Mr. Diener asks about the materials that will be used for the driveway. Mr. Aube stated that they will use pervious asphalt. Mr. Diener voiced confusion regarding a difference in materials cited on the plan, which references pervious concrete. Mr. Aube said that he thought the issue may be carried over from another plan, and he will check into that.

Mr. Lessard reminded Mr. Aube that they will need to get a driveway permit.

Ms. O'Brien asked about an infiltration system show on the plans. Mr. Aube confirmed that there will not be an infiltration system. Ms. O'Brien asked that the plan be updated.

No public comment.

Mr. Tilton MOTIONED to recommend a Town Wetland Permit be granted for 67 Mooring Drive. SECONDED by Mr. Diener. Vote: Unanimous.

4. 28 Nor'East Lane NHDES Standard Dredge & Fill
Applicant: Sweet Nectar LLC (Michael Kettenbach)
Agent: Sergio Bonilla PWS, CWS, CESSWI
Property Owner: Sweet Nectar, LLC (Michael Kettenbach)

Mr. Bonilla spoke on behalf of this application. This project proposes to rehabilitate the single-family dwelling to a single-family dwelling.

Mr. Bonilla notes that Montauk daisies were discussed in the walk through. The impervious area will be converted to pervious. The home will be shifted back 1 foot from the reference line. They have included a robust planting plan and want to work with the commission. Mr. Bonilla emphasizes that they can revise the planting plan if the commission wants that.

Ms. Wrobel clarified that the project will involve taking the entire house down to build a new one.

Ms. O'Brien asked about elevation. Mr. Bonilla said that they will elevate the structure on piles to become FEMA compliant. He noted that they have had positive feedback from NHB (?). They will use Silt Socks for erosion control. There will be pervious paver conversions and patio conversions. The deck will be converted to pervious pavers.

Mr. Lessard asked about Montauk daisies and the possibility of more indigenous grasses within the area of the marsh. Mr. Bonilla said they would use more beach grass and more sand.

Mr. Diener asks about the infiltration trenches shown on the plan on the street side of the house. Mr. Bonilla confirms that they will be there and all of the water will flow to that side of the house.

No public comment.

Mr. Tilton MOTIONED to not oppose the Standard Dredge and Fill NHDES permit. SECONDED by Mr. Diener. Vote: Unanimous.

5. 97 Drakeside Rd NHDES Standard Dredge and Dill
Applicant: 95 Drakeside Realty, LLC
Agent: Jason Aube, TFMoran
Property Owner: 95 Drakeside Realty, LLC

Mr. Aube spoke on this application. This project proposes to permanently impact 2,039 sqft of the Undeveloped Tidal Buffer Zone for the purpose of regrading and land clearing associated with the construction of a new residential dwelling and accessory structures within the Protected Shoreland and beyond the limits of the Tidal Buffer Zone.

This project meets the standards of the Shoreline Protection Act. A stormwater management plan is proposed and they have done their best to stay out of the Tidal Buffer Zone.

Ms. Wrobel asked for a description of the stormwater management plan. Mr. Aube explained that it would be a dry well. Stormwater from the roof would be directed to the area.

Mr. Diener asked where the dry well is on the plan. Mr. Aube pulled out the plan, but could not find the dry well. Mr. Aube realized he made a mistake and explained that the dry well was included on the original plan, but they have since revised the impervious surface to 18.8% and are no longer required to incorporate stormwater management.

Mr. Diener asked about the shed and deck at the top of the neighboring property. Mr. Aube noted that the structures will be removed as a condition of the sub-division.

Mr. Lessard asked if the house is in the same location on the plan as when the subdivision was approved. Mr. Aube said there were 3 or 4 different concepts proposed.

Ms. O'Brien asked about the town GIS and where the property line is relative to the sports complex building and the subdivision. Mr. Aube said he walked the property extensively and was mindful of the structures that straddled the property line. The structures were pretty close.

Mr. Diener MOTIONED to not oppose the NHDES Standard Dredge and Fill permit.
SECONDED by Mr. Tilton. Vote: Unanimous.

V. Appointments (8:21 PM)

1. Keith Lessard to Review Batchelder Pond Parking Area Repairs

Mr. Lessard reviewed the project that the Hampton School District would like to take on. They would like to repair the parking lot, install a silt fence along the edge on the pond and stream side of the parking lot, and install fence or large rocks on the corner and entrance to the foot bridge. The goal would be to eliminate large ponding of water in the parking area and to reduce the U-turning or large trucks and equipment that may have caused the ruts. It would be a volunteer project.

The commission discussed if this project would need a permit or not. The consensus is that it likely won't need a permit.

Mr. Diener asked if silt fence would be permanent enough for the project. Mr. Lessard explained that he would use it as a starting point and hope to get other people to donate gifts later to improve it.

Mr. Tilton said that the Silt Sock will probably look better than other options and it would allow things to grow through it. Mr. Lessard noted that silt sock would require more fundraising.

Ms. O'Brien noted that she would like to see boulders, but there are not any there already.

Mr. Lessard added that black fence is highly visible and long lasting. It also is not a tripping hazard. Mr. Diener voice a concern that silt sock would be too low.

Mr. Lessard acknowledged that the superintendent, Lois Costa, has suggested hay bales, but they are extremely expensive right now.

Mr. Diener said that he is in support of this project and would encourage them to put up a barrier that is both effective and affordable.

Ms. O'Brien asked if they are planning to put up any signage. Mr. Lessard liked the idea and noted that the project would result in more use from fifth graders. Ms. Wrobel added that if they put up signage, it would be nice to have some educational signs. Mr. Lessard agreed and asked for assistance from the commission to put together language for the signs.

Mr. Diener asked if they have spoken to the Department of Public works about materials they could provide. Mr. Lessard confirms that he has, but unfortunately they do not currently have anything they can offer.

VI. New Business (8:38 PM)

1. 41:14a Proceedings Release of Town Owed Deed Restrictions on Formerly Leased Land 843 Ocean Blvd.

Ms. Wrobel asked if there are any wetlands associated with this property. Ms. O'Brien said no and explained that it is outside of the Wetland Conservation District.

Ms. Wrobel MOTIONED to write a letter saying that the Conservation Commission does not oppose this. SECONDED by Jay. Vote: Unanimous.

2. Annual Maintenance Review for all Conservation Properties

Ms. O'Brien explained that there was about \$16,000 left in the budget from last year. She asked how the commission would like to use that money. She mentioned that the town forest has a broken post and sign at the Jonty's Lane entrance.

Mr. Diener thought the gate post was an issue for the DPW.

Mr. Tilton added that he would like to see the parking spots reworked. He finds them hazardous. He suggested that they ask Public Works for their opinion on how to fix it.

Ms. O'Brien clarifies that the broken sign is at White's Lane, not Jonty's Lane. Mr. Tilton suggested replacing the wooden sign with a metal sign for more durability. Mr. Tilton also suggested consolidating information that is currently presented across multiple signs.

Ms. Wrobel suggested revisiting an issue at the Victory Garden that the DPW was unable to help with previously. This would involve removing some dead trees and adding another plot. Ms. O'Brien said they could also beautify the area. Mr. Tilton noted that the project could pay for itself if the increase plot prices. Mr. Diener suggested looking into what other towns charge for victory garden plots. Ms. O'Brien noted that she knows of other towns that charge a lot more for plots.

Ms. Wrobel noted that when they have an intern there may be new issues they become aware of. She suggested setting some of the money aside for any new issues that come up. The consensus was that any new issues that are identified could be addressed the following year.

Mr. Diener asked if the commission would like to continue to hire the company that has mowed the land at Ice Pond for the last 5 years. The commission agrees that they should continue to hire them. Mr. Diener will arrange it and they will send Ms. O'Brien the invoices.

Mr. Diener suggested costing out the potential projects and then deciding on one.

Ms. O'Brien suggested increasing signage throughout the conservation lots. She asked how that would work with easement properties. Mr. Diener said that properties with easements would need to be coordinated with the property owners.

Ms. O'Brien suggested using signs to identify wetlands throughout the town. She is looking into grants that could facilitate this. Mr. Tilton noted that he hasn't seen towns do that.

Ms. Wrobel added that the Fuller Grant becomes available in May and it supports green projects in coastal New Hampshire.

3. Chat Update

Mr. Diener gives the CHAT update.

CHAT is currently trying to identify funding mechanisms for a variety of different projects to build coastal hazard resilience in Hampton. Eventually the goal is to make a recommendation to the town for a Capital Improvements Plan or other funding mechanism for resistance or coastal hazards projects.

Ms. Wrobel asked for examples of projects. Mr. Diener gave examples like replacing the culvert along High Street and acquisition of properties on the marsh.

Ms. Wrobel asked if CHAT would attempt to fund managed retreat. Mr. Diener no, because there is already the FEMA mechanism in place and CHAT doesn't have the capacity to manage a project like that. They will likely help the town and residents apply for retreat funding.

Ms. O'Brien stated that CHAT is more focused on the adaptation and mitigation projects. Ms. Wrobel added that in Harvard county they did get involved with helping to fund retreat.

4. Town Forest and Victory Garden Subcommittees

Ms. Wrobel asked the commission if they can legally create subcommittees. It would be helpful for communication to have a subcommittee for the Victory Garden and the Town Forest.

Mr. Tilton confirmed that they can create subcommittees. Mr. Diener added that he believes the subcommittee just needs to report to someone on the Conservation Commission.

Ms. O'Brien noted that there is a season opening meeting for the Victory Garden on April 19th and she will talk to some people about a subcommittee at that meeting.

Ms. Wrobel asked about the Town Forest having a subcommittee also. Mr. Diener said that the people who live nearby are paying attention to the area. He feels that if they join a subcommittee they can keep an eye on the property. Mr. Tilton added that the property has marked trails and off-trail activity has not been a problem, biking is the issue. When a trail map is put up and says what is and isn't allowed, it becomes a lot easier to enforce.

Ms. Wrobel said that they just need to get a trail map up, hopefully this year. Ms. O'Brien said that there are groups that can help establish the trails. Mr. Tilton said that one has been marked off.

Mr. Diener suggested getting the Boy Scouts involved with an Eagle Scout project. Ms. O'Brien noted that the Town Forest is tricky because some of the land in there is privately-owned.

VII. Old Business 9:08 PM

1. Barkley Property

Ms. Wrobel gave an update

- SELT put out an RFP for a property survey out with four companies to be done by August.
- They are working to get the house and the two acres separated.
- A hazardous waste survey is planned for no later than June.
- Hoping to close by the end of September. The latest being December.
- SELT will establish contact with the attorney.
- Mr. Diener got the letter from Aquarion for the \$5000 donation.

2. Standard Stipulations

Postponed to the April meeting due to time.

VIII. Conservation Coordinator and Chair Update (9:12 PM)

For Brianna to assume the full-time position she had to write a letter to the chair expressing her interest. Ms. Wrobel has to accept her letter of interest and formally offer the full-time position. HR helped Ms. Wrobel draft a letter to accept Ms. O'Brien's letter and Ms. O'Brien will assume the full-time position as of April 1st.

Ms. O'Brien gave an update on Liberty Lane:

- The pre-application meeting took place a few weeks ago.
- The closer the town's mitigation requirements align with the state's, the more the town will get out of it.
- The state will be looking for mitigation. If the mitigation is to be land protection, based on the presented concept design it would need to equal 60 acres.
- If the land was protected it would have to be held in a conservation easement. They would not be looking for recreational land. If land already has a trail, that is OK, but DES is specifically looking for a mitigation easement and to have a third party right of enforcement.
- The state is not in favor of building a pond.
- More meetings will be held and the applicant does not currently have any more information.

Mr. Tilton asked about public access to the protected mitigation land. Ms. O'Brien stated that she believes there would be no public access. Ms. Wrobel asked Ms. O'Brien to follow up for more details on what it entails.

Ms. Wrobel noted that the list was sent into the ARM for projects. Ms. Wrobel and Ms. O'Brien have looked through to see if there are any projects that would align us with the state. They will start putting pricing on the projects that are the best fit. .

Mr. Fox stated that a good understanding of the ARM process is critical.

Mr. Diener asked if the 60 acres can be a combination of purchased and donated land. Ms.

O'Brien believed it could be, but was unsure if it needed to be contiguous.

Ms. O'Brien stated that the Department of Public Works has asked the Conservation Commission to write letters of support for two projects.

Ms. O'Brien read a description of each of the projects:

- To address erosion at the pump station on Winnacunnet Road they are applying for the Critical Flood Risk Grant Program. The grant will allow them to hire an engineer and help with planning and assessment.
- Sewer manhole rehabilitation projects that will study and evaluate 22 manholes across numerous streets. Planning and assessment will help assess the conditions and determine how to remove infiltration.

Mr. Diener MOTIONED to send letters of support for both grants. SECONDED by Mr. Tilton. Vote: Unanimous.

Ms. O'Brien gave an update on the spring newsletter:

- Ms. O'Brien will send out a digital copy of the spring newsletter.
- Corrections can be sent to Ms. O'Brien.
- Ms. O'Brien asked for recommendations for action items that can be added. She is looking for things that are more specific about clean up events unless everyone agrees that it should be kept vague.

Ms. Wrobel asks that if the call to action is left vague that there be information on where to find a place and date for an event. Ms. O'Brien said that people will be directed to the Conservation Commission's webpage and Facebook.

Mr. Fox noted a point of clarification under 'Fast Fact' Bullet 3. He feels that they need to be careful when they say 'Denim' because a lot of pants are not made with pure cotton anymore and have polyester in them.

Mr. Tilton noted that on page 2 under the pictures of flooding in the second paragraph it should say "easterly" not "eastern".

Mr. Diener noted that on page 3 under the photos of plants they should identify which photos are of invasive species.

Mr. Diener asked when Ms. O'Brien would like to get the newsletter out by. Ms. O'Brien said she would like to get it out by the first week of April.

Feedback should be sent to Ms. O'Brien by next Monday, March 28th.

Ms. Wrobel added that SELT should be spelled out before the acronym is used.

IX. Adjourn (9:34 PM)

Mr. Diener MOTIONED to adjourn the meeting. SECONDED by Ms. Wrobel. Vote: Unanimous.