



Robert F. Sullivan  
Mayor

# CITY OF BROCKTON

DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT

Planning Board

Historical Commission

Conservation Commission

Robert May, CEcD  
Director

## MINUTES

NOVEMBER 15, 2023 – 6:30 PM

Chairwoman Joyce Voorhis called the November 15th, 2023 meeting of the Brockton Conservation Commission to order and read the following statement: “The meeting is being conducted remotely in accordance with Governor Healey’s Open Meeting changes updated in March of 2023 which extended certain Covid 19 provisions until March 31, 2025. Real-time public participation and comment can be addressed to the Conservation Commission utilizing the Zoom virtual meeting software. If you wish to comment during a public input portion of the hearing, please use the 'raise your hand' function to be addressed at the appropriate time. For those of you joining by phone only, please press ‘\*9’ to raise your hand. All comments made are a matter of public record and should be conducted in a way that is respectful of others. Should personal or inflammatory remarks be made during the meeting, the host reserves the right to mute the speaker. A copy of this recording will be on the City’s webpage. All votes taken during this meeting will be done by a roll call vote to ensure count accuracy.”

The following members were confirmed to be in attendance by roll call: Laura Biechler, Peggy Curtis, Shareefah Mapp, Lily Green, Ruby Clay, and Joyce Voorhis – Chair. Conservation Agent Kyle Holden; Administrators Rhode Germain & Isaiah Thelwell.

**NOTE - Agenda Items Continued to the December 13th, 2023 Meeting:**

### ***11. ANRAD***

***Property: 549 Copeland Street***

***Project: Resource Delineation***

***Representative: J.K. Holmgren Engineering***

### ***12. Notice of Intent***

***Property: 10 Peckham Avenue***

***Project: Residential construction***

***Representative: J.K. Holmgren Engineering***

### ***13. Notice of Intent***

***Property: 166 East Ashland Street***

***Project: Contractor building construction***

***Representative: J.K. Holmgren Engineering***

### ***14. ANRAD***

***Property: 339 Quincy Street (Parcel ID:156-477)***

***Project: Resource Delineation***

***Representative: J.K. Holmgren Engineering***

*15 Notice of Intent*

*Property: 511 Thatcher Street*

*Project: Solar Canopy Construction*

*Representative: Farland Corp.*

*NOTE - The following Agenda items were **not heard**:*

*8. RDA - **Withdrawn by applicant***

*Property: 940 Belmont Street*

*Project: Resource Area Confirmation*

*Representative: Acela Architects and Engineers P.C*

*9. Notice of Intent - **Improper Legal Notice***

*Property: 10 Churchill Avenue Extension*

*Project: Accessory structure construction*

*Representative: Curley & Hansen*

*1. Acceptance of October 18th, 2023 and October 4th, 2023 minutes*

**A motion was made (Biechler) and seconded (Curtis) to accept the October 18th, 2023 minutes. Motion passed by unanimous vote.**

**A motion was made (Biechler) and seconded (Curtis) to accept the October 4th, 2023 minutes. Motion passed by unanimous vote.**

*NEW FILINGS*

*2. Certificate of Compliance*

*Property: 728 North Cary Street*

*Project: Single family home*

*Representative: J.K Holmgren Engineering*

Scott Faria with J.K Holmgren Engineering presents the Certificate of Compliance application for 728 North Cary Street. Per Faria, both lots 728 and 744 North Cary Street received permits in 2019, and the work was completed, but issues arose concerning removal of Japanese knotweed in the Buffer Zone. A partial Certificate of Compliance was issued in 2020, allowing both houses to close and be sold off. The Commission proposed a bond to ensure outstanding work completion, a letter confirming completion was submitted and former Agent Shave suggested permanent markers, which Mr. James Morrissey (Property Owner) installed. Faria also mentioned the removal of a silt sock presented challenges due to vegetation, but the environmental company confirmed it's photodegradable, recommending letting nature break it down.

James Morrissey mentioned a meeting with Holden earlier that day. He informed the group that the old signs were removed, and new markers were successfully installed. Additionally, they completely removed the silt sock's fabric, leaving the mulch undisturbed in its original place. Chairwoman Voorhis inquired about the fabric's composition, to which James Morrissey suggested it might be nylon. The mulch remained intact, and the removal process was done delicately without causing any disruption.

Agent Holden confirmed that after meeting on-site with Morrissey, everything appeared satisfactory. The silt sock had been removed as per the request. Holden suggested, for the Commission's consideration, that they vote to issue a complete Certificate of Compliance for both 728 and 744 North Cary Street.

**A motion was made (Biechler) and seconded (Curtis) to issue a complete Certificate of Compliance for 728 North Cary Street. Motion passed by unanimous vote.**

Agent Holden provided clarification on the bond mentioned by Mr. Faria earlier in the meeting. After issuing the complete Certificates of Compliance for both properties, Holden explained the process of releasing the bond. He mentioned that he would write a letter to the Planning Board, the entity responsible for releasing the funds initially. The Planning Board would vote on releasing the bond at their meeting scheduled for December 5th, 2023, allowing the money to be returned to the appropriate account.

### ***3. Certificate of Compliance***

***Property: 744 North Cary Street***

***Project: Single family home***

***Representative: J.K Holmgren Engineering***

*(The contents of this hearing were discussed and voted on simultaneously with 728 North Cary Street - Certificate of Compliance.)*

**A motion was made (Biechler) and seconded (Curtis) to issue a complete Certificate of Compliance for 744 North Cary Street. Motion passed by unanimous vote.**

### ***4. ANRAD***

***Property: 0 Toby Road (Parcel ID: 175-160)***

***Project: Bordering vegetated Wetlands & riverfront delineation***

***Representative: W Engineering***

Evan Watson with W Engineering, presented the ANRAD application for 0 Toby Road. Per Watson, The property consists of two parcels, one on each side of Toby Road, with a Wetland in the valley and a river delineated. Watson presented topography, utility easements, and Wetland locations. Agent Holden made a correction that Brockton has a 25-foot riverfront area, not 50 feet, as previously mentioned by Watson.

Holden recommended that the Commission request BETA to confirm the Wetland delineation for the project. He clarified that the current filing is an ANRAD, solely focused on confirming Wetland lines and resource areas. Once BETA confirms the lines, and the Commission is comfortable with their comments, the plan is valid for three years. Any actual development plans would require a separate filing, such as a Notice of Intent, and approval from the Commission.

### ***Public Comment:***

*Councillor Jack Lally* - Jack Lally, the Ward 6 City Councilor, acknowledged concerns raised by abutters and constituents regarding the confusion and lack of clear notification about the project. He highlighted the stress and questions that arose due to the rollout of information. Lally mentioned that although there seems to be no specific project, the process still caused uncertainty among residents. He acknowledged the straightforward nature of the ANRAD filing but emphasized the importance of transparent communication and proper notification in future discussions. Lally concluded by requesting that any future developments be handled with a high priority and notifying the neighborhood to avoid unnecessary stress for the residents.

**A motion was made (Biechler) and seconded (Curtis) to continue 0 Toby Road to the December 13th meeting. The motion was passed by unanimous vote.**

## **5. RDA**

**Property: 51 Parkview Lane**

**Project: Tree Removal**

**Representative: Lauren Duarte**

Lauren Duarte presented the RDA application for 51 Parkview Lane. Duarte, the Property owner, had concerns about three large trees near her property line. Although these trees are not on her property, she has permission from the landowner to have them removed. A local tree service professional provided a letter recommending the removal of these trees due to safety concerns. The identified trees are a White Oak, a Hickory Tree, and a White Pine Tree. Duarte sought approval from the Conservation Commission for the removal of these trees

Agent Holden presented photos of the site, per Holden, Two of the trees; the white pine and the hickory, are leaning towards the property and pose a clear risk. The third tree, the White Oak, does not show preferential growth in any direction. Holden recommended the removal of the two hazardous trees but suggested further evaluation by an arborist for the White Oak to assess its health and root system before deciding on its removal.

Duarte expressed her understanding of the Commission's responsibility to protect the Wetlands but emphasized the uncertainty and risk associated with the trees near her property. She requested the Commission to consider allowing the removal of all three trees at once, due to the potential danger they pose to her home and family. Duarte mentioned the financial burden of removing the last tree at a later time and expressed concern about the anxiety and hardship caused by the situation.

Commissioner Biechler suggested seeking the opinion of an arborist to assess the health of the third tree. This approach aims to avoid unnecessary expenses for the homeowner and ensures a comprehensive evaluation of the situation before making a final decision. Chairwoman Voorhis agreed with this suggestion, acknowledging the need for a balanced and informed resolution.

**A motion was made (Biechler) and seconded (Curtis) to continue 51 Parkview Lane to the December 13th meeting for an update on obtaining an arborist opinion.**

## **6. RDA**

**1 Massasoit Boulevard (Parcel ID: 140-005)**

**Project: Removal and replacement of fuel tank system**

**Representative: Nitsch Engineering, Inc**

Bill Maher with Nitsch Engineering, presented the RDA application for 1 Massasoit Boulevard. Per Maher, the project involves removing an existing gas pump, two underground tanks, a concrete pad, and associated piping located on the eastern side of the public facilities building of Massasoit Community College. The plan is to backfill the area with clean material, pave over it, and relocate the system farther away from the Wetlands. The proposed new system includes above-ground double-walled tanks, an alarm system, and protective bollards. Maher mentions that the existing tanks have been in place for approximately 30 years and were subject to a cleanup in 1993.

Maher addresses measures to prevent soil and water contamination, such as monitoring wells, a Licensed Site Professional overseeing the project, and erosion control barriers. Maher notes that the contractor will provide additional erosion controls based on their activities on the site. The new system will be put online before the removal of the old one, ensuring continuous access to gasoline for the college's vehicles. Chairwoman Voorhis inquires about the excavation and concrete encasement, and Maher responds, providing details about the depth of excavation for the pad and the conduit. Maher also mentions that they had previously received a negative determination for a parking lot reconstruction

project at the same site.

Agent Holden raised several points of concern. He sought clarification from the applicant about the installation of hoods over catch basins, specifically questioning whether any excavation would be involved. Maher clarified that the installation involves placing a plastic insert over the pipe without excavation. Holden was concerned about elevation differences, particularly between 104.57 and 104.71. Holden expressed worries about potential sheet flow and soil exposure. Maher explained that there is a ridge line, and although the elevation near the tanks may be 104.71, it rises to about 105.2 or higher, addressing concerns about sheet flow and contamination. Holden also inquired about soil contamination and referred to documents submitted to the commission. Holden communicated with the State's Underground Storage Program and confirmed that the submitted documents appeared satisfactory. He highlighted the staggered schedule of self-reported and third-party inspections and emphasized State regulations for tank removal, including active monitoring during the process. Holden then directed attention to drainage circles with hash marks, questioning if they were connected to one system.

Maher clarified that the cross-hatched circles on the plan indicate the installation of erosion control devices like silt sacks, waddles, and straw mats over catch basins to prevent foreign inflow. Holden inquired about the connectivity of these catch basins, and Maher explained that they are part of the stormwater system in Brockton. The outflow from these catch basins goes into a channel or swale that has been present since the college's construction in the late 1960s or early 1970s. This channel eventually leads to a Wetland area located to the north or east of the site.

While recognizing the existing gas pump and drainage in the area, he questioned whether the project's impact would differ significantly from the current situation. Holden suggested that the catch basin system might extend the jurisdiction of the Conservation Commission. He explained that he is not convinced that the project should receive a negative determination and proposed continuing the discussion to the next month, allowing for further investigation and possibly a site visit. Chairwoman Voorhis requested a site visit, and Holden mentioned that Commission members are welcome to join.

**A motion was made (Biechler) and seconded (Curtis) to continue 1 Massasoit Boulevard to the December 13th meeting. The motion was passed by unanimous vote.**

## **7. Notice of Intent**

**Property: 137 Perkins Avenue**

**Project: Storage facility renovation**

**Representative: J.K Holmgren Engineering**

Scott Faria with J.K Holmgren Engineering presents the Notice of Intent application for 137 Perkins Avenue. Per Faria, this project involves the conversion of a large four-story building, a former candy factory, into a storage facility. The main reason for appearing before the Commission was the majority of the site fell within the FEMA flood zone. Construction on the property, particularly the addition of loading docks requiring ramps, triggered the need for approval from the Commission. The project had already received approval from the Board of Appeals. The project would be reviewed by BETA, and the presentation aimed to ensure that all necessary documents were properly submitted, initiating the hearing process. Faria also explained that the proposed storage facility would have a loading dock to facilitate the delivery of heavy items such as refrigerators or couches. Once inside the facility, there would be freight elevators to transport items to different floors. The applicant aimed to modernize and improve the older building.

Additionally, Faria highlighted the current lack of drainage facilities on the majority of the site. To address this, the applicant proposed drainage infiltration systems to manage roof runoff, comprising about 60% of the site. These upgrades aligned with Stormwater Management guidelines from both the EPA and the City of Brockton, resulting in improved runoff conditions and increased groundwater recharge. The back area of the site, which is currently paved, would also undergo enhancements. Chairwoman Voorhis inquired about compensatory storage, particularly when the site is already

impervious. Holden explained that there are two aspects to consider: first, meeting the Stormwater Ordinance requirement for a 40% reduction or improvement in infiltration due to redevelopment, and second, compensatory storage for flood storage reduction caused by the construction of ramps. Holden clarified that BETA would review both stormwater and compensatory storage elements as part of the project. Chairwoman Voorhis then asked if BETA had issued a scope and fee, to which Holden responded that they hadn't yet, as the Commission needs to make the request, and the process would proceed from there.

**A motion was made (Biechler) and seconded (Curtis) to refer 137 Perkins Avenue to BETA for review. The motion was passed by unanimous vote.**

**A motion was made (Biechler) and seconded (Curtis) to continue 137 Perkins Avenue to the December 13th meeting. The motion was passed by unanimous vote.**

#### **10. Certificate of Compliance**

**Property: 195 Liberty Street:**

**Project: Freestanding sign replacement**

**Representative: Curley & Hansen**

Agent Holden presented his agent report in which he expressed that the project was not in compliance with the Order of Conditions. He specifically pointed out an area around the sign installation that was supposed to be seeded and stabilized but hasn't been adequately done. Holden recommended that the Commission deny the Certificate of Compliance request, with the expectation that the applicant will make the necessary changes and reapply for the Certificate of Compliance in the future.

**A motion was made (Biechler) and seconded (Curtis) to deny the request for a Certificate of Compliance for 195 Liberty Street. The motion was passed by unanimous vote.**

#### ***VIOLATIONS***

##### ***16. 1003 Crescent Street***

Agent Holden reported that he received calls in early October about dump trucks delivering fill to the site at 1003 Crescent Street, potentially impacting Wetlands. After visiting the site and halting work, Agent Holden and Louis Porter identified Wetlands and established tentative flags marking the buffer zone. Further work was paused until a formal Wetland Delineation could be conducted, the delineation was recently submitted. Holden emphasized that the initial violation notice was issued because they needed to assess the extent of the violation before taking further action.

Faria addressed the violation notice received. After consulting with the property owners, Brad Holmes of ECR Environmental conducted a Wetland delineation. The report, received last week, identified four separate areas, with one being a Bordering Vegetative Wetland barely encroaching on the property. The other three areas are considered isolated Wetland areas, not appearing jurisdictional. The applicants are looking to develop the property, potentially for residential purposes, and no work has been done on the site yet. Faria explained that, in addition to the flags set by Holden with the property owners a month ago, they plan to pace out a 100-foot buffer zone and surround any work done within that zone with a silt sock to stabilize it.

Faria is working with the property owners to develop the site. They plan to submit a Notice of Intent to the Commission for the development of the site in the near future. Faria and Agent Holden think that any environmental impact caused by the fill can be addressed during the filing of the Notice of Intent.

## **ENFORCEMENT ORDERS**

### ***803 Crescent Street***

Agent Holden gives a summary in regards to the Enforcement Order at 803 Crescent Street where unauthorized pavement extension occurred. Holden presented potential solutions, including the removal of added concrete, compensatory storage in an existing gravel area, addressing the slope of the new concrete, and evaluating the feasibility of modifications. The Commission explored options to guide the property owner, Mr. Bruno Silva, in addressing the violation and potential environmental impacts.

Chairwoman Voorhis expressed concern about Mr. Bruno Silva, who recently bought the property and faced Enforcement Orders due to additional impervious surfaces installed by the previous owner. Chairwoman Voorhis highlights the installation might have been a requirement for selling used automobiles. She emphasizes Mr. Silva's challenges in establishing his business and the potential financial burden posed by extensive drainage requirements. Chairwoman Voorhis suggests offering assistance and guidance to Mr. Silva, considering his circumstances, and Ruby Clay agrees, encouraging a collaborative approach to support him in getting his business started.

### ***34 Hermon Street***

Agent Holden discussed 34 Hermon Street, the property owner received multiple Enforcement Orders from the Commission over the years. The property owner, who owns a construction company, has been dumping waste material from construction jobs onto their property, extending it over the property line into a city-owned parcel with a jurisdictional Brook. Holden issued an Enforcement Order and requested the property owner's presence at the meeting, but they were not in attendance.

Holden explains that the property owner is adding fill, trash, and debris to the protected area. Due to the absence of the property owner at the meeting, Holden recommends ratifying the enforcement order. He mentions that the Brockton Law Department is looking to build a case against the property owner since the issue is ongoing. Chairwoman Voorhis asks if the property owner received the enforcement order, and Holden indicates that they did.

**A motion was made (Curtis) and seconded (Biechler) to ratify the Enforcement Order for 34 Hermon Street. The motion passed by unanimous vote.**

**A MOTION WAS MADE (Curtis) AND SECONDED (Biechler) TO CLOSE THE MEETING, THE MOTION PASSED BY UNANIMOUS VOTE.**