

Narrative

The project proposes to raze and rebuild an existing single family dwelling within 100' of a wetland resource area. The project site is located at 58 Bonnie Brier Circle, Assessor's Parcel 22-21, consisting of 6,643 sf.

The property is currently developed with a single family dwelling. There is a paved driveway on the westerly side of the property and existing home, an existing deck on the rear of the house, and a shed located to the northwest of the house. The existing vegetation consists of a few scattered trees with existing maintained lawn area and a salt marsh in the rear of the property. The existing utilities consist of town water and sewer, gas and overhead electric services. The topography of the site slopes from the street down to the salt marsh. The resource areas consist of salt marsh, flood zone AE elevation 10, and 200' riverfront area associated with the Weir River. A portion of the site that is located within the flood zone falls within an Area of Critical Environmental Concern and Outstanding Resource Waters.

The applicants are proposing to raze the existing dwelling, and construct a new single family home with a paved driveway and deck in the rear. The project proposes to connect to the existing water, sewer, gas and electric services that currently serve the property. The proposed grading and site is consistent with the existing topography. The project proposes to decrease the impervious coverage within the 50' buffer zone from 36 sf to 34 sf, a reduction of 2 sf and increase the impervious coverage within the 50-100' buffer zone from 1,543 sf to 1,659 sf, an increase of 116 sf. The project proposes 1:1 mitigation to impervious coverage in accordance with the buffer zone mitigation policy consisting of 116 sf of native plantings. The proposed house is located further from the resource areas, and the proposed deck is located no closer to the resource area than the existing deck. Dimensions of the proposed structures are detailed on the Site Plan. The project is not located within an ORW or ACEC as there is no proposed work within this area of the site. There is a silt sock erosion control barrier located between the proposed work and resource area and a construction entrance is proposed.

In accordance with 10.58(4)(d)(1) the issuing authority may allow the alteration of up 5,000 sf or 10% of the riverfront area within the lot, whichever is greater, on a lot recorded on or before October 6, 1997. The lot was created in 1925 and contains less than 5,000 sf of riverfront area 4,238 sf total. In accordance with 10.58(5) Redevelopment, the property currently consists of 4,238 sf of developed riverfront area consisting of existing structures, decks, driveways and maintained lawn area. The existing degraded areas consisting of impervious surfaces and structures consists of 1,503 sf. Due to the limited space and size of the lot, in order to demolish the existing structure deck and driveway, the project proposes to temporarily alter approximately 2,300 sf of riverfront area, which is the area

within the limit of work. The project proposes a reduction in the impervious surfaces and structures within the riverfront area from 1,503 sf existing to 1,245 sf proposed which will improve the riverfront area in accordance with 10.58(5).

The project meets the performance standards of the Hingham Wetland Regulations and the Wetlands Protection as follows:

18.0. LAND BORDERING ON THE OCEAN

18.4. Salt Marshes

d) Performance Standards. When a Salt Marsh or land within a minimum distance of 100 feet of a Salt Marsh is determined to be significant to a wetland value, the following regulations shall apply:

(1) A proposed project shall not cause any adverse effect or cumulative adverse effect upon salt marsh productivity and wetland values of a salt marsh.

The project will have no adverse effects on the Salt Marsh. No work is proposed within this resource area. All proposed work is located greater than 50' from the resource area with the exception of removing a small portion of an existing deck and proposed new deck. A silt sock erosion control barrier is proposed between the resource area and limit of work. 116 sf of mitigation planting are proposed along the rear property line and perimeter of the salt marsh.

(2) Notwithstanding the above provisions, no project may be permitted which will have any adverse effect on specified habitat of rare vertebrate or invertebrate, as identified by procedures established under 310 CMR 10.37.

No work is proposed within this resource area. All proposed work is located greater than 50' from the resource area with the exception of removing a small portion of an existing deck and proposed new deck. The site is not located within an NHESP priority habitat.

(3) Refer to HWR 23.0 et seq. for additional project-specific performance standards.

310 CMR 10.32 Salt Marshes

When a salt marsh is significant to one or more of the interests specified above, the following characteristics are critical to the protection of such interest(s):

(a) the growth, composition and distribution of salt marsh vegetation, (protection of marine fisheries and wildlife habitat, prevention of pollution, storm damage prevention);

There is no proposed work within the resource area. The project is located 45' from the resource area. A silt sock erosion control barrier is proposed between the project work area and resource area to protect the interests listed above. In addition, native plantings are proposed just upland from the salt marsh resource area improving current conditions.

(b) the flow and level of tidal and fresh water (protection of marine fisheries and wildlife habitat, prevention of pollution); and

A silt sock erosion control barrier is proposed between the project work area and resource area to protect the interests listed above. In addition, native plantings are proposed just upland from the salt marsh resource area improving current conditions.

(c) the presence and depth of peat (ground water supply, prevention of pollution, storm damage prevention).

A silt sock erosion control barrier is proposed between the project work area and resource area to protect the interests listed above. In addition, native plantings are proposed just upland from the salt marsh resource area improving current conditions.

DAMAGE PREVENTION OR GROUND WATER SUPPLY, 310 CMR 10.32(3) THROUGH (6) SHALL APPLY:

(3) A proposed project in a salt marsh, on lands within 100 feet of a salt marsh, or in a body of water adjacent to a salt marsh shall not destroy any portion of the salt marsh and shall not have an adverse effect on the productivity of the salt marsh. Alterations in growth, distribution and composition of salt marsh vegetation shall be considered in evaluating adverse effects on productivity. 310 CMR 10.32(3) shall not be construed to prohibit the harvesting of salt hay.

There is no proposed work within the salt marsh or within 45' of the salt marsh. The project will not impact growth distribution and composition of salt marsh vegetation.

(4) Notwithstanding the provisions of 310 CMR 10.32(3), a small project within a salt marsh, such as an elevated walkway or other structure which has no adverse effects other than blocking sunlight from the underlying vegetation for a portion of each day, may be permitted if such a project complies with all other applicable requirements of 310 CMR 10.21 through 10.37.

Not applicable.

(5) Notwithstanding the provisions of 310 CMR 10.32(3), a project which will restore or rehabilitate a salt marsh, or create a salt marsh, may be permitted in accordance with 310 CMR 10.11 through 10.14, 10.24(8), and/or 10.53(4).

Not applicable.

(6) Notwithstanding the provisions of 310 CMR 10.32(3) through (5), no project may be permitted which will have any adverse effect on specified habitat sites of Rare Species, as identified by procedures established under 310 CMR 10.37.

The project site is not located within a habitat site of Rare Species.

22.0. RIVERS

d) Performance Standards.

(1) Except as stated below, the Commission hereby incorporates 310 CMR 10.58 in its regulations for all matters related to Bylaw jurisdiction in lands within 200 feet of rivers and streams.

2) Notwithstanding the above, a river is any natural flowing body of water that empties to any ocean, lake, pond, other river, stream or wetland and which flows throughout the year. Perennial rivers, streams and creeks are rivers; intermittent streams are not.

Notwithstanding 310 CMR 10.58, the burden of proof shall be on any applicant to show that a river, stream or creek is not perennial (i.e., is intermittent).

(3) For any river or stream that is tidally influenced, the Commission shall use the DEP mouth of the river designation line.

(4) Notwithstanding any provisions of 310 CMR 10.58, the Commission shall presume that the mean annual high water line of a non-tidal river is coincident with the outer (landmost) boundary of any Bordering Vegetated Wetland (as defined in these regulations) that may be adjacent to the river. This presumption may be overcome upon a clear showing that the mean annual high water line is closer to the river. Such evidence may include hydrological measurements and calculations prepared by a registered professional engineer and/or hydrologist, and/or stream flow stage data from U.S. Geological Survey stream gauges and survey. For non-tidal rivers lacking any Bordering Vegetated Wetland, the inner boundary

of the 200- foot Riverfront Area shall be the top of Inland Bank as determined by the first observable break in slope or the mean annual flood level, whichever is lower. For tidal rivers, the inner boundary of the 200-foot Riverfront Area shall be the mean annual high water line.

(5) Notwithstanding any provisions of 310 CMR 10.58, the alternatives analysis shall include only lots adjacent to the lot(s) being proposed for development, or located in the near vicinity.

The project site is a single family residence. The lot size is only 6,624 sf and is entirely developed. The project proposes to raze and rebuild the existing single family dwelling. The proposed dwelling is located in the same location as the existing dwelling in previously altered and degraded riverfront area. There are no feasible alternatives that would result in less potential impacts to the riverfront area. There are no other feasible alternative locations for the house. The house is located as far from the resource area as possible and is in the same location as the existing house to be razed.

(6) Notwithstanding the above provisions, no project may be permitted which will have any adverse effect on specified habitat of rare vertebrate or invertebrate and rare plant species, as identified by procedures established under 310 CMR 10.59.

The project site is not located within a NHESP habitat.

(7) The Commission may impose such additional requirements as are necessary to protect the wetland values protected under the Bylaw.

(8) Refer to HWR 23.0 et seq. for additional project-specific performance standards.

Riverfront Area

10.58: Redevelopment Within Previously Developed Riverfront Areas; Restoration and Mitigation.

5. Notwithstanding the provisions of 310 CMR 10.58(4)(c) and (d), the issuing authority may allow work to redevelop a previously developed riverfront area, provided the proposed work improves existing conditions. Redevelopment means replacement, rehabilitation or expansion of existing structures, improvement of existing roads, or reuse of degraded or previously developed areas. A previously developed riverfront area contains areas degraded prior to August 7, 1996 by impervious surfaces from existing structures or

pavement, absence of topsoil, junkyards, or abandoned dumping grounds. Work to redevelop previously developed riverfront areas shall conform to the following criteria:

The project proposes to raze and rebuild an existing single family dwelling within an existing developed riverfront area. The proposed project is an improvement as the proposed structure and driveway will be further from the resource area than the existing structure and driveway.

- a. At a minimum, proposed work shall result in an improvement over existing conditions of the capacity of the riverfront area to protect the interests identified in M.G.L. c. 131 § 40. When a lot is previously developed but no portion of the riverfront area is degraded, the requirements of 310 CMR 10.58(4) shall be met.
The proposed house is located primarily within the same location as the existing house. The proposed project is an improvement as the proposed structure and driveway will be further from the resource area than the existing structure and driveway
- b. Stormwater management is provided according to standards established by the Department.
There are no stormwater standards for a single family dwelling.
- c. Within 200 foot riverfront areas, proposed work shall not be located closer to the river than existing conditions or 100 feet, whichever is less, or not closer than existing conditions within 25 foot riverfront areas, except in accordance with 310 CMR 10.58(5)(f) or (g).
The proposed dwelling is further from the river than the existing dwelling.
- d. Proposed work, including expansion of existing structures, shall be located outside the riverfront area or toward the riverfront area boundary and away from the river, except in accordance with 310 CMR 10.58(5)(f) or (g).
This is not feasible as almost the entire site is located within the riverfront area.
- e. The area of proposed work shall not exceed the amount of degraded area, provided that the proposed work may alter up to 10% if the degraded area is less than 10% of the riverfront area, except in accordance with 310 CMR 10.58(5)(f) or (g).
In accordance with 10.58(5) Redevelopment, the property currently consists of 4,238 sf of developed riverfront area consisting of existing structures, decks, driveways and maintained lawn area. The existing degraded areas consisting of impervious surfaces and structures

consists of 1,503 sf. Due to the limited space and size of the lot, in order to demolish the existing structure deck and driveway, the project proposes to temporarily alter approximately 2,300 sf of riverfront area, which is the area within the limit of work. The project proposes a reduction in the impervious surfaces and structures within the riverfront area from 1,503 sf existing to 1,245 sf proposed which will improve the riverfront area in accordance with 10.58(5).

- f. When an applicant proposes restoration on-site of degraded riverfront area, alteration may be allowed notwithstanding the criteria of 310 CMR 10.58(5)(c), (d), and (e) at a ratio in square feet of at least 1:1 of restored area to area of alteration not conforming to the criteria. Areas immediately along the river shall be selected for restoration. Alteration not conforming to the criteria shall begin at the riverfront area boundary. Restoration shall include:
1. removal of all debris, but retaining any trees or other mature vegetation;
 2. grading to a topography which reduces runoff and increases infiltration;
 3. coverage by topsoil at a depth consistent with natural conditions at the site; and
 4. seeding and planting with an erosion control seed mixture, followed by plantings of herbaceous and woody species appropriate to the site;

Not applicable. The project does not propose restoration of degraded riverfront area.

- g. When an applicant proposes mitigation either on-site or in the riverfront area within the same general area of the river basin, alteration may be allowed notwithstanding the criteria of 310 CMR 10.58(5)(c), (d), or (e) at a ratio in square feet of at least 2:1 of mitigation area to area of alteration not conforming to the criteria or an equivalent level of environmental protection where square footage is not a relevant measure. Alteration not conforming to the criteria shall begin at the riverfront area boundary. Mitigation may include off-site restoration of riverfront areas, conservation restrictions under M.G.L. c. 184, §§ 31 through 33 to preserve undisturbed riverfront areas that could be otherwise altered under 310 CMR 10.00, the purchase of development rights within the riverfront area, the restoration of bordering vegetated wetland, projects to remedy an existing adverse impact on the interests identified in M.G.L. c. 131, § 40 for which the applicant is not

legally responsible, or similar activities undertaken voluntarily by the applicant which will support a determination by the issuing authority of no significant adverse impact. Preference shall be given to potential mitigation projects, if any, identified in a River Basin Plan approved by the Secretary of the Executive Office of Energy and Environmental Affairs.

Not applicable. The project does not propose mitigation other than elevating the existing structure and removal of structures within the riverfront area.

- h. The issuing authority shall include a continuing condition in the Certificate of Compliance for projects under 310 CMR 10.58(5)(f) or (g) prohibiting further alteration within the restoration or mitigation area, except as may be required to maintain the area in its restored or mitigated condition. Prior to requesting the issuance of the Certificate of Compliance, the applicant shall demonstrate the restoration or mitigation has been successfully completed for at least two growing seasons.

Not applicable.

22.0. BUFFER ZONE

d) Performance Standards.

(1) The intent of the Conservation Commission is to move all structures and activities as far away as possible from any Resource Area, in order to protect the wetland values of Resource Areas.

The proposed deck, is located approximately 47.6' from the salt marsh. The closest work to the resource area is the limit of work located 45' from the salt marsh. The existing vegetated buffer zone shall be retained. 116 sf of mitigation planting are proposed along the rear property line and perimeter of the salt marsh.

(2) Except as otherwise specified, Resource Area buffers shall be retained and maintained in a naturally vegetated condition. Where buffer disturbance has occurred during construction, revegetation with native vegetation may be required.

The existing vegetated buffer zone shall be retained. 116 sf of mitigation planting are proposed along the rear property line and perimeter of the salt marsh.

(3) The Commission may require that already-altered buffer zone be restored in order to protect or improve Resource Area values. Restoration means planting native vegetation, grading, correcting site drainage, removing debris, or other measures which will improve, restore and protect the wetland values of the Resource Area.

The existing vegetated buffer zone shall be retained. 116 sf of mitigation planting are proposed along the rear property line and perimeter of the salt marsh.

(4) Notwithstanding the above provisions, no project may be permitted which will have any adverse effect on specified habitat of rare vertebrate or invertebrate and rare plant species, as identified by procedures established under 310 CMR 10.37 for Coastal Resource Areas or 310 CMR 10.59 for Inland Resource Areas.

Not applicable.

(5) The Commission may impose such additional requirements as are necessary to protect the wetland values protected under the Bylaw.

23.0. PROJECT-SPECIFIC PERFORMANCE STANDARDS

23.3. Landscaping

No new lawns or driveways may be constructed within 50 feet of any Resource Area, as defined in HWR 2.00 (1-5).

There are no new lawns or driveways proposed within 50 feet of any Resource Area.

23.6. Filling

a) No fill shall be placed in any Resource Area or any buffer zone so as to alter the flow of surface water in a way that the Conservation Commission feels will adversely affect the wetland values of the Resource Area(s).

The project proposes to maintain existing grades. There is minimal grading proposed.

b) No filling or excavation or other alteration of salt marshes shall be permitted.

Not applicable.

c) The Commission at its discretion may allow the filling of up to 2,500 square feet of Vegetated Wetland for a limited project, if satisfied that mitigation required in the Order of Conditions is sufficient to protect the Resource Area. If filling is allowed, the Commission shall require replication of the wetland at a ratio of at least 2:1, in an area that is hydrologically suitable for supporting wetland functions, similar in type or function to the wetland being altered, hydrologically connected to the altered wetland, and must be accomplished by using wetland soils and by using native wetland plant species removed from the area to be filled. The replicated wetland must be established prior to commencing the upland activity. The replicated wetland must be monitored for at least two growing seasons and must be maintained as a functional wetland with wetland values at least

equaling those of the filled wetland for at least five years following the completion of the main project.

Not applicable.

d) Compatible fill shall be used for beach and dune nourishment projects. Compatible fill means clean sediment of a grain size that is approximately the same as the area being nourished (e.g., if the area being nourished consists of gravel, sand, silt or clay, then the fill brought in for nourishment should be gravel, sand, silt or clay). Clean means the sediment does not contain contaminants and is free of debris.

Not applicable.

e. Dumping of lawn wastes, brush or leaves or other materials or debris is not permitted in any Resource Area.

Not applicable.

f. The Commission is authorized to deny any filling of any Resource Area in order to protect the wetland values of the Resource Area.

Not applicable.

Site Photos



