



# Town of Danvers

## Conservation Commission

1 Sylvan Street, Danvers, Massachusetts 01923  
p: 978-777-0001 x. 3095 | [www.danversma.gov](http://www.danversma.gov)

Commission Members  
Peter Wilson, Chair  
Vanessa Curran  
Chelsea King  
Michael Splaine

The Danvers Conservation Commission held a public meeting on Thursday, January 9, 2020

Mr. Wilson opened the Conservation Commission meeting at 7:00pm with a reading of the “Commission Statement.”

### I. ROLL CALL

Peter Wilson, Chair  
Vanessa Curran  
Chelsea King  
Georgia Pendergast, Staff  
Mike Splaine

### II. REGULAR AGENDA

#### A. Request for Partial Certificate of Compliance [310 CMR 10.05 (9)]

##### 6 Overlook Drive, DEP No. 14-280

Applicant: Gilmore & Gilmore

Richard Gilmore of Gilmore and Gilmore at 19 Cherry Street represented the applicant, requesting a Certificate of Compliance for Lot 9, 6 Overlook Drive. An Order of Conditions was issued for the drainage issues of the entire project and attached to the Title of this property. The property was sold in September, closing was not delayed due to the understanding that the attorney would request a Certificate of Compliance.

Ms. Pendergast did a visit site and there are no issues. She told the Commission that they would issue a Partial Certificate of Compliance so that each open lot will apply for their own Certificate of Compliance. Mr. Gilmore told the Commission that everything is complete. The Commission is concerned that Condition #36, no use of pesticides and no dumping of leaves and grass, will remain within the Order.

Mrs. Curran referred to Condition #27, the maintenance of oil grease traps. Mrs. Pendergast explained that this one and another three (3) conditions are considered for the overall Order of Conditions, the roadway subdivision work.

Ms. Pendergast mentioned that 6 Overlook Drive has a big drainage area, and Danvers Engineering viewed it to be sure there was flow and operating as it should. Mr. Splaine inquired about Condition #32 which also applied to the roadway.

**MOTION:** Mr. Splaine makes a motion to issue a Certificate of Compliance for Lot 9, 6 Overlook Drive, DEP File #14-280, noting that Condition #36 remains as an ongoing condition for the homeowners; Mrs. Curran seconded; all in favor

#### B. Notice of Intent [310 CMR 10.05 (4)] – Continued Public Hearing – NOI

##### 48 Riverside Street, DEP #14-1337

Applicant: Richard Osterberg

Alex Karp, Engineer at GZA Geoenvironmental, Inc., represented the applicant. This project was presented to the Commission last month. Since then, the DEP file number was issued, and a written response was



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submitted to address comments from the previous meeting. There was a late edition sent electronically to Ms. Pendergast yesterday and she in turn distributed to the Commission both via email and hard copy.

Ms. Pendergast explains to the Commission that the Harbormaster two smaller comments were contained in the memo. But the latest distributed version contains both the comments from the Harbormaster and the applicant's response.

Mr. Karp addressed the concern of the pier encroaching on Town owned property or extending into the navigable channel which it does neither. He tells the Commission that there was a pre-application meeting with the former Conservation Agent and the Harbormaster. During the meeting, the possibility of the presence of Town property between the applicant's property and the river was raised. However, no one at the meeting was aware of this and it came as a bit of a surprised. It was later researched by an attorney and through conversations with Stephen King, Town Engineer, there was no documentation that the Town owns property between the applicant & the river. There is an easement on the property, but the beneficiary is the neighbor.

Mr. Splaine is concerned that the memo states the float MUST be thirty inches above the shellfish habitats, but Mr. Karp's proposed project is only 18". In response, he states that the wording is ambiguous, and the shellfish suitability area was identified. The design calls for an 18" clearance because the thirty inches would not work with site constraints and would render the pier of little use. Mr. Karp states that this is a recommendation, and the design is based on the small docks and piers guidelines from DEP. In a location like this, there is no access to the river unless going through shellfish habitat and by extending the pier some distance across that river has its own adverse impacts. This design is the least harmful.

Mrs. Curran asks Mr. Karp to explain why keeping it 30" above the mudflat is of little use. And in order to be thirty inches at low tide, with the floatation and framing it would be well over three feet. The posts under the float would be longer and have more movement which is a safety issue.

Mr. Splaine asks for clarification because on the memo it states that the floats MUST be thirty inches. Ms. Pendergast tells the Commission that she can't imagine DEP would specify one thing, then specify something different in another document. Ms. King reads aloud that it should be elevated at least 18" in a mapped shellfish environment. Ms. Pendergast asks Mr. Karp if he could realistically get them 30" above the mudflats because there are docks in Danvers that can't even reach the eighteen inches.

In general, the condition in that area, the flats are touching the bottom, and this design is minimizing the extent feasible. Mr. Karp states that he intends to give eighteen inches. Mr. Splaine wants to know if they are required to approve this for the thirty inches. Mr. Wilson states that he thinks these are recommendations rather than hard rules. Ms. Pendergast agrees. Mr. Karp responds that the 30" is in shellfish habitat where there is still water at low tide.

The pilings material will be southern yellow pine (CCA). Mrs. Curran refers to small docks and piers guides where they advise not using CCA. Ms. Curran reads from the small docks and piers guide that CCA lumber is not recommended under the protection act for use as both pilings and decking and recommends that alternative material, pressure treated lumber that does not contain CCA be considered. CCA can be damaging to human health and the environment. Mr. Karp responds that they are aware of the recommendation and their experience is this is a common widely used, time tested product that works well in this climate and



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environment. There are other products available, such as FRP, fiberglass reinforced piles, but there are durability issues and requires a more frequent maintenance schedule. Other than that, it is installed the same way. Lately there has been some back tracking on adverse effects of using the CCA piling. Things that may degrade or repaired over time those are made with more suitable materials.

Mr. Wilson states that the Commission recently permitted a dock with longer spans, forty-five foot, but used less piles. This was not taken through the design because it would increase cost and require a different type of contractor.

Mrs. Curran asked if it they could have a longer distance between the piles at the beginning, over the salt marsh, to eliminate any piles in the salt marsh and install the traditional piles further out. The applicant is very limited where the pier can be installed in order to remain within the property line. The width of the salt marsh is only thirty-nine feet and there is not advantage gained by moving the pier north and south. Different material would have to be considered, requiring a much deeper section structurally to cover that distance. The way the design is now, a 1:1 height ratio above the salt marsh can be maintained. After the second bend it increases. If they were to increase the span over the salt marsh, it would require a significantly deeper beam or a more elevated structure which would certainly be more obtrusive than neighboring piers. Mrs. Curran asks how much higher for the elevation. Mr. Karp responds ten inches to a foot. The Commission does not feel this is much of a difference.

Mrs. Curran references the memo from DMF requiring the dock height to be 1.5:1 if instructed over the salt marsh. Mr. Karp states that this the first time they have seen this requirement. Their experience is the 1:1 ratio, which is the recommended practice and consistent with the small docks and piers guidelines. There is an average of 1.5:1 over the salt marsh, by the time they are at the end of the salt marsh it is over eight feet clearance.

Mr. Karp address the larger span, there are other constructability considerations that would require larger equipment which would be difficult to site in that area given the graft and the reach for the salt marsh. Smaller timbers would require lighter equipment.

Mrs. Curran inquired about the land under the ocean. In Mr. Karp's narrative, he stated that no eel grass was observed. In the small docks and piers guide, they make mention of eel grass being somewhat variable over time. The question was asked if Mr. Karp looked to see if it were ever mapped for eel grass habitat verses whether it was just observed. Mr. Karp stated that has not been mapped and not sure if it suitable to grow eel grass anywhere in the footprint of the pier.

Mrs. Curran asks if the four concrete blocks need to be removed seasonally. The answer is no. She again refers to the DMF comments, suggesting helical anchors instead because they seem to have a smaller footprint. This subject was discussed with the former Conservation Agent and Harbormaster, but it is a difficult item to get, usually only obtained through a specialty contractor. The concrete mooring blocks are 3 ½ x 3 ½. Mr. Karp is asked the size of a helical anchor. They are much less in size than a concrete mooring block, which would be less disturbance for the two located within the shellfish habitat.

Mr. Splaine once again brings up the MUST be thirty inches. Ms. Pendergast clarifies that she had typed the word "must" in the memo to the Commission. In the small pier and docks guide, it states that floats or if there are no floats, the end of the pier must be at least 2 ½ feet from the bottom to prevent adverse impacts from shellfish. The guide then states that floats must be removed in the off-season to allow easier access for shell



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fishing. Ms. Pendergast is not sure if this refers to shellfish habitats or shell fishing. Mr. Karp states that this is a shellfish suitability habitat which means that if they were to dig, they might not find any shellfish. This was mapped eight years ago as a suitability area.

Mrs. Curran states that there are a few things that the Commission would like to follow up on. They would like Ms. Pendergast to clarify the 1.5:1 ratio from DMF. If this is accurate, is that suppose to be on average or on every point. The Commission would like the applicant to consider alternatives other material for pilings material and the use of helical anchors for the mooring blocks. Mr. Karp states that some of this material requires a different tier of construction. Mrs. Curran also asks about a boat bottoming out at the mud flats. Mr. Karp explains that the applicant is trying to minimize the size of the boat which be used to access a larger one.

Ms. Pendergast and the applicant agree that the work will be done in the winter from a platform or existing walkway.

A company will be hired to remove the float and gain way, take them away and store offsite. Ms. Pendergast will check with the Harbormaster whether there are deadlines for removing these items.

The smaller craft to get out to a larger boat right now is a kayak. In the future it will be an inflatable flatter motorized boat.

The Commission revisits the following list of discussion items:

- The applicant will investigate the helical anchors on the mooring blocks and proposed materiel for the piers, specifically the pilings.
- Ms. Pendergast will clarify with DMF the 18 inch and the 30 inch in the shellfish area. And the 1.5:1 ratio

Bill Bradstreet, Town Meeting Member or Precinct 1, asked if the Commission had visited during either low or high tide. The Commission does not have any intentions of making a decision this evening and is planning on scheduling a site visit at low tide prior to next hearing. Mr. Bradstreet asked if the property lines are adjacent to the water and staked. The line is carried out from the land property line, holding the 25 feet.

The Commission scheduled a site visit for Saturday, 1/11/20 at 4:00pm. The Commission is prepared to see no structures, title flats for a few hundred feet, salt marsh and the neighbors' piers.

Mrs. Curran once again asks the applicant to consider the wider spans, reducing the pilings allowing less disturbance to the shellfish habitat.

**MOTION:** Mrs. Curran makes a motion to continue the hearing of 48 Riverside Street, DEP File No. 14-1337; Ms. King seconded; all in favor

### C. Emergency Certification Rear of 10 Valley Road

The department of public works notified Board of Health and the Conservation Commission on 12/17/19 that Beaver dam near the rear portion of 10 Valley Road was causing flooding issues. This has been an area of concern in the past and permission was issued for an emergency certification to allow for the removal of the



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beavers and the associated dams. The Board of Health issued a permit for trapping of the beavers on 12/18/19. It is requested that the Commission issue an Emergency Certification to allow for removal of the beaver dam by hand.

Mr. Wilson refers to the removal and trapping of the beavers in the Fall behind Endicott Park prior to the approval of the Conservation Commission. Ms. Pendergast states that this one is in the early stages of flooding and due to the weather, it delayed hiring the trappers. On Friday, the department of Public Works contacted Ms. Pendergast to inform her that they were ready to begin the trapping. They have flooded the Town owned reservoir access road on Valley Road and the impending potential flooding to the neighborhood.

Mrs. Curran stated that she's not opposed to approving the Emergency Certification but if this keeps coming up, should a beaver deceiver be considered. It is the installation of a pipe that allows the water to go through so the beaver can continue to build their dam, but the water will continue to flow.

**MOTION:** Mr. Splaine makes a motion to issue the Emergency Certification to allow for removal of the beaver damn as requested by the Board of Health and Department of Public Works for Rear of 10 Valley Road; Ms. King seconded; all in favor

### D. MINUTES - November 14, 2019

There is one correction in the minutes, Ms. King is listed twice in the Motion under Subject E.

**MOTION:** Mr. Splaine makes a motion to approve the November 14, 2019 minutes with one amendment; Ms. King seconded; all in favor

### OLD/NEW BUSINESS

#### Enforcement/Violation Order Updates

- **352 Andover Street**

Ms. Pendergast did a site visit to Great Rock Church and spoke to the pastor. Mayer Tree Service will be coming in and chipping everything and taking everything away. They will be monitored regularly. Ms. King brought up a good point at the site visit when it was mentioned that the wood was coming from out of state. Ms. Pendergast will clarify if there are any regulations on crossing state lines in order to monitor insects.

- **69 Liberty Street**

The applicant has moved back materials toward the garage and is working on the piles. Ms. Pendergast will continue to monitor.

### III. ADJOURNMENT

Mrs. Curran makes a motion to adjourn the meeting at 8:20pm; Mr. Splaine seconded; all in favor